

CALENDAR ITEM

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W 20681
Horn

GENERAL LEASE
INDUSTRIAL USE

APPLICANT: Pacific Gas and Electric
Company (PG&E)
77 Beale Street, Room 1113
San Francisco, California 94106

AREA, TYPE LAND AND LOCATION: Approximately 75 acres of coastal submerged lands in Monterey Bay, offshore of Moss Landing, Monterey County.

LAND USE: Marine petroleum terminal and appurtenances.

TERMS OF PROPOSED LEASE:

Initial period: 20 years from January 1, 1978.

Renewal options: 2 successive periods of 10 years each.

Public liability insurance: \$1,000,000 per occurrence for bodily injury and \$5,000,000 for property damage.

Special: The terminal will be limited to vessels of 90,000 Dead Weight Tons (DWT) or less.

CONSIDERATION: Commencing January 1, 1978, annual volumetric rental accrues according to the following schedule:

- (a) \$0.01 (one cent) per barrel of commodities until the minimum annual rental below (d) is equaled.
- (b) \$0.002 (2 mils) per barrel for the next 5,000,000 barrels; and
- (c) \$0.005 (5 mils) per barrel for each additional barrel passing over the

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State's land in that same lease year.

- (d) The minimum annual rental is \$70,000; except that the minimum annual rental for the first lease year (January 1, 1978 through December 31, 1978) shall be \$10,000. The Commission reserves the right to fix a different rental on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:

Volumetric rental pursuant to 2 Cal. Adm. Code 2006.

PREREQUISITE TERMS, FEES, AND EXPENSES:

Applicant is owner and permittee of the various upland parcels.

Filing fee has been received.

Environmental costs will be billed to PG&E. Staff has devoted hundreds of hours to completion of the environmental documentation for this project.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code: Div. 6, Parts 1 & 2.

B. Administrative Code: Title 2, Div. 3,
Arts. 1, 2, 6.5,
10 & 11.

OTHER PERTINENT INFORMATION:

1. Early in 1974, the Commission received an application from PG&E to construct a new marine terminal facility at their Moss Landing electric generating station.

The new facility will enable PG&E to provide fuel oil (or low sulfur crude oil) to its power plant in a more economic manner than at present. The existing terminal, located partly on lands granted to the Moss Landing Harbor District, would be abandoned with the pipelines left in place.

Originally, PG&E proposed constructing a new facility capable of accommodating 130,000 DWT tankers. The Commission

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acting as lead agency under CEQA, circularized a draft EIR on the expansion project, and subsequently received numerous comments on the environmental document. A public hearing on the draft EIR was held in Monterey in August of 1974.

As a result of the numerous comments on the project, PG&E requested that the project be held in abeyance pending reevaluation and to have sufficient time to respond to the comments generated on the draft EIR.

In 1976, PG&E revised the project and provided staff with a scaled-down expansion project and additional environmental data. The present project is engineered similarly to the original project but will be limited to vessels of 90,000 DWT. Staff reviewed the revised project data, responses to comments on the original draft EIR and new environmental data. Several workshop sessions with representatives of other agencies were held so that their concerns would be adequately addressed in the environmental document. As a result of these sessions, PG&E was required to conduct additional studies and submit additional data. A revised draft EIR was then prepared and circularized during August and September, 1977. Another public hearing was held in Monterey during September, 1977.

Again, numerous comments were generated on the document. Commission's Staff and PG&E have been working on responses to these comments and have prepared a final EIR on the project. The final EIR has been circulated in accordance with the State EIR Guidelines and staff believes the document fully complies with CEQA.

In brief, the document shows that construction impacts will be minimal. Sufficient safeguards will be taken to insure

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that dune restoration and channel dredging activity impacts are limited. The EIR does point out that the potential for environmental degradation will exist; that is, if a major oil spill occurs. However, staff believes that the project has been designed and will be operated in a manner that such potential for environmental degradation is minimized.

2. Staff also believes that the project conforms with the Commission's coastal regulations, Article 6.5, 2 Cal. Adm. Code, especially Section 2541 thereof. The environmental documentation on this project has led to a project design that staff believes meets the criteria in said Section 2541 and the California Coastal Act of 1976. Although staff does not believe that the project is a new tanker terminal situated outside of an existing terminal area within the meaning of Section 30261(a) of the Coastal Act, the project has been designed and situated to minimize risk to the environment; but does not utilize a monobuoy mooring system. The conventional 7-buoy mooring system is in use at many locations along the California coast and has proven its effectiveness in providing a safe facility for the transfer of bulk petroleum products. In addition, the EIR shows that the 7-point mooring facility is environmentally preferable because of the geological hazards that would be encountered if a monobuoy system were utilized.

3. The project is situated on State land identified as possessing significant environmental values pursuant to Public Resources Code 6370.1, and is classified in a use category, Class "B" which authorizes Limited Use. The project, in the event of a major oil spill, could impact lands that are classified in use categories "A" and "C" as well. However, staff believes that the project has been designed and will be operated in a manner that reduces the chances

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of adverse impact on said environmentally significant lands.

FURTHER APPROVALS REQUIRED:

Since the Commission is acting as lead agency on this project no other approvals have been obtained. In addition to local agency approvals, PG&E must obtain approval from the United States Coast Guard, United States Army Corps of Engineers, Regional Air Resources Board, Regional Coastal Commission, State Department of Parks and Recreation and the State Water Resources Control Board.

Because of the additional time necessary to obtain these approvals, the construction limiting dates in the proposed lease to PG&E have been extended. The reduction in minimum annual rental for the first lease year is in recognition of PG&E's projected construction time table. It is unlikely that PG&E will physically occupy the leased lands before the end of 1978.

EXHIBITS: A. Land Description. B. Location Map.
 C. Final EIR #214.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT A FINAL EIR HAS BEEN PREPARED FOR THIS PROJECT BY THE COMMISSION'S STAFF, FOLLOWING EVALUATION OF COMMENTS AND CONSULTATION WITH PUBLIC AGENCIES WHICH WILL ISSUE APPROVALS FOR THE PROJECT.
2. CERTIFY THAT THE FINAL EIR #214 HAS BEEN COMPLETED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970, AS AMENDED, AND THE STATE EIR GUIDELINES, AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
3. MAKE THE FOLLOWING DETERMINATIONS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT:
 - a. CONSTRUCTION OF THE PROJECT ON BEACH AREAS COULD POTENTIALLY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; HOWEVER, THESE EFFECTS ARE MITIGATED BY THE REGRADING

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AND REVEGETATION PROGRAM REQUIRED AS A CONDITION OF PROJECT APPROVAL:

- b. IN THE EVENT OF A MAJOR OIL SPILL, A SIGNIFICANT EFFECT ON THE ENVIRONMENT IS LIKELY TO OCCUR; THIS POSSIBILITY IS REDUCED BY THE INCORPORATION OF SEVERAL MITIGATION MEASURES DISCUSSED IN THE FINAL ENVIRONMENTAL IMPACT REPORT, INCLUDING A CURRENT OIL SPILL CONTINGENCY PLAN, THAT SUBSTANTIALLY LESSEN THE POSSIBILITY OF AN OIL SPILL AS WELL AS THE POSSIBLE EFFECTS OF SUCH A SPILL;
- c. THE PROJECT WILL INCREASE PEAK AIR EMISSIONS AS COMPARED TO THE PRESENT TANKER FACILITY, WHILE OVERALL ANNUAL EMISSIONS WILL DECREASE AS A RESULT OF THE PROJECT. ANY ADVERSE AIR QUALITY EFFECTS ARE FURTHER MITIGATED BY THE IMPOSITION OF STANDARDS FOR THE PERCENTAGE OF SULPHUR IN THE FUEL OIL BURNED BY TANKERS WHILE IN THE TERMINAL; WHICH STANDARDS ARE PROPERLY IMPOSED BY THE LOCAL AIR POLLUTION CONTROL DISTRICT.
4. FIND THAT ADEQUATE PROVISIONS HAVE BEEN MADE FOR THE PROTECTION OF THE SIGNIFICANT ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
5. DETERMINE THAT THE PROJECT IS CONSISTENT WITH THE PROVISIONS OF THE CALIFORNIA COASTAL ACT OF 1976, INCLUDING SECTIONS 30232-3 AND 30260-1 OF THE PUBLIC RESOURCES CODE AND ARTICLE 6.5, TITLE 2 OF THE CALIFORNIA ADMINISTRATIVE CODE.
6. AUTHORIZE ISSUANCE TO PACIFIC GAS & ELECTRIC COMPANY OF A 20-YEAR GENERAL LEASE - INDUSTRIAL USE FROM JANUARY 1, 1978, WITH LESSEE'S OPTION TO RENEW FOR 2 SUCCESSIVE PERIODS OF 10 YEARS EACH; IN CONSIDERATION OF ANNUAL RENTAL STATED BELOW:

COMMENCING JANUARY 1, 1978 ANNUAL VOLUMETRIC RENTAL ACCRUES ACCORDING TO THE FOLLOWING SCHEDULE:

- (1) UNTIL THE MINIMUM ANNUAL RENTAL PROVIDED FOR IN SUBPARAGRAPH (3) HEREOF IS EQUALED IN EACH LEASE YEAR, 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 \$0.01 (ONE CENT).

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- (2) FOR THE NEXT 5,000,000 BARRELS BEYOND THE NUMBER OF BARRELS NECESSARY TO SATISFY THE MINIMUM RENTAL UNDER SUBPARAGRAPH (1) HEREOF, THE RENTAL SHALL BE \$0.002 (2 MILS) PER BARREL; AND THEREAFTER \$0.005 (5 MILS) PER BARREL FOR EACH ADDITIONAL BARREL OF SUCH COMMODITIES PASSING OVER THE STATE'S LAND IN THAT SAME LEASE YEAR.
- (3) THE MINIMUM ANNUAL RENTAL SHALL BE \$70,000; EXCEPT THAT THE MINIMUM ANNUAL RENTAL FOR THE FIRST LEASE YEAR (JANUARY 1, 1978 THROUGH DECEMBER 31, 1978) SHALL BE \$10,000. THE COMMISSION RESERVES THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE.

PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$1,000,000 PER OCCURANCE FOR BODILY INJURY AND \$5,000,000 FOR PROPERTY DAMAGE; FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF MARINE OIL TERMINAL AND APPURTENANCES WHICH WILL UTILIZE TANKERS OF 90,000 DEAD WEIGHT TONS OR LESS, ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

W. 20584

Two parcels of submerged land, lying in Monterey Bay, Pacific Ocean, State of California, immediately offshore from the Town of Moss Landing and in the vicinity of the mouth of Elkhorn Slough, more particularly described as follows:

PARCEL 1

A strip of submerged land 30 feet wide extending westerly from the westerly boundary line of the land conveyed to the Moss Landing Harbor District by the State of California (Chapter 131, page 1160, Statutes of 1967) and lying 15 feet on each side of the following described centerline:

COMMENCING at the U.S.C.E. Monument designated "NEW BLOCK" having a California Coordinate System, Zone 4 coordinates of $Y = 549,316.41$ and $X = 1,183,981.79$; thence $S 12^{\circ} 19' 00'' E$, 169.20 feet; thence $N 85^{\circ} 30' 00'' W$, 2,490 feet more or less to said westerly boundary of land conveyed to the Moss Landing Harbor District and the TRUE POINT OF BEGINNING of this description; thence continuing $N 85^{\circ} 30' 00'' W$, 1,880.85 feet to a point hereinafter designated as Point "A"; thence continuing $N 85^{\circ} 30' 00'' W$, 1,244.15 feet to the end of the herein described centerline.

EXCEPTING THEREFROM any portion lying easterly of the westerly boundary of the above mentioned grant to the Moss Landing Harbor District.

SUBJECT TO the effect of the decree in the judgement of condemnation in Monterey County Superior Court Case No. 31277, P.G. & E. Co. vs. Moss Landing Harbor District, et. al.

PARCEL 2

A parcel of submerged land more particularly described as follows:

BEGINNING at the aforementioned Point "A"; thence $N 23^{\circ} 54' 03'' E$, 89.36 feet; thence $N 29^{\circ} 21' 51'' W$, 301.00 feet; thence $N 78^{\circ} 07' 13'' W$, 848.72 feet; thence $N 80^{\circ} 44' 06'' W$, 553.72 feet; thence $S 14^{\circ} 20' 27'' W$, 1111.01 feet; thence $S 18^{\circ} 07' 38'' E$, 1284.69 feet; thence $N 75^{\circ} 20' 58'' E$, 564.17 feet; thence $N 67^{\circ} 20' 09'' E$, 980.91 feet; thence $N 05^{\circ} 15' 27'' E$, 476.83 feet; thence $N 23^{\circ} 54' 03'' E$, 282.39 feet to the point of beginning.

EXCEPTING THEREFROM any portion described in Parcel 1.

This description is based on the California Coordinate System Zone 4,
the distances used in the above description are ground distances.
Multiply ground distances by 0.9999459 to obtain grid distances.

END OF DESCRIPTION

Prepared John K. Hain Checked JCH
Reviewed A. H. Zimmick Date 2/17/78