

11. AMENDMENT OF LEASE PRC 5468.1 AND AUTHORIZATION TO
SEND VOLUMETRIC RENTAL IMPOUND LETTER - W 20681

During consideration of Calendar Item 11., the Commission had questions concerning P.G.&E.'s request for an amendment in the term of the lease and also regarding the volumetric impound account.

Because these questions were not answered to the satisfaction of the Commission, no action was taken and the matter was left open to further negotiation.

Mr. N. G. Taylor, Assistant Attorney General, inserted later that the record should be clarified with regard to Mr. McCausland's earlier statement that the Commission was one of the agencies which delayed approval of the EIR. Mr. Taylor stated there was no delay on the part of the staff in the preparation of the EIR. The EIR process was lengthy because of the procedures set forth to receive public comment and the controversy which resulted from this transaction which in turn required the gathering of additional material.

Attachment: Calendar Item 11 (four pages)

CALENDAR ITEM

6/78
W 20681
Horn

11.

AMENDMENT OF LEASE PRC 5468.1 AND
AUTHORIZATION TO SEND VOLUMETRIC
RENTAL IMPOUND LETTER

The Commission at its meeting on April 27, 1978, approved a 20-year General Lease - Industrial Use for PG&E's proposed expansion of their Moss Landing Marine Terminal (PRC 5468.1).

The lease has a beginning date of January 1, 1978. Because of the delay in completing the environmental documents for the project and anticipated delays in obtaining all other regulatory approvals PG&E has requested that the lease beginning date be modified. Staff is recommending that the lease beginning date be changed to July 1, 1978. Also, a minor change to the rental paragraph will be accomplished to reflect the change in lease term.

Staff is also seeking Commission authority to send PG&E a letter detailing the impounding of volumetric rental in excess of the minimum rental and the distribution of said impounded rentals pending final resolution of the existing litigation. PG&E has requested that such a letter be sent.

A similar letter has been provided to all other volumetric rental lessees who have requested such letter.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21065, 14 CAL. ADM. CODE 15037 AND 2 CAL. ADM. CODE 2903(d).
2. AUTHORIZE AN AMENDMENT TO LEASE PRC 5468.1 WHICH CHANGES THE TERM FROM 20 YEARS BEGINNING JANUARY 1, 1978 TO 19 YEARS AND 6 MONTHS BEGINNING JULY 1, 1978, AND ADJUSTS THE ANNUAL RENTAL ACCORDINGLY.
3. AUTHORIZE THE EXECUTIVE OFFICER TO SEND PACIFIC GAS AND ELECTRIC COMPANY A LETTER WHICH PROVIDES THAT RENTALS PAID IN EXCESS OF THE MINIMUM ANNUAL RENTAL ON LEASE PRC 5468.1 SHALL BE DEPOSITED INTO A SPECIAL DEPOSIT ACCOUNT IN THE STATE TREASURY, PENDING FINAL DISPOSITION OF LITIGATION CONCERNING THE VALIDITY OF THE COMMISSION'S VOLUMETRIC RENTAL REGULATIONS AND THAT SAID IMPOUNDED RENTALS ARE TO BE REFUNDED AND A NEW REASONABLE RENTAL IMPOSED BY THE COMMISSION SHOULD THE COMMISSION'S VOLUMETRIC RENTAL REGULATIONS BE INVALIDATED.

A 28

S 17

EXHIBIT "A"

W 20681

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. 31,277, 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 $N 29^{\circ} 21' 51'' W$, 801.00 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. Smith Checked [Signature]
Reviewed H. H. Kunnick Date 2/17/78
2/18

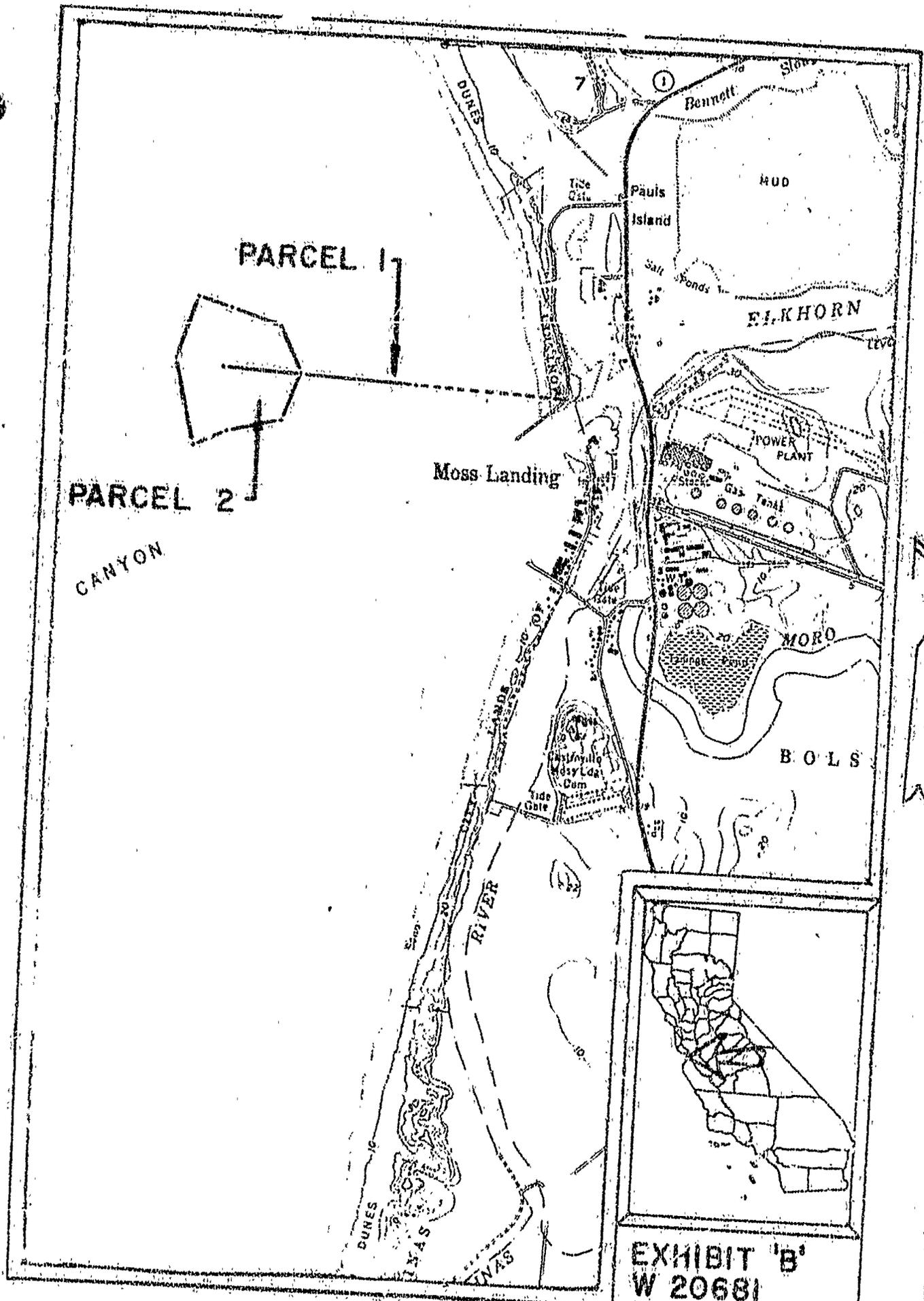


EXHIBIT 'B'
W 20681