

MINUTE ITEM

This Calendar Item No. 27  
was approved as Minute Item  
No. 27 by the State Lands  
Commission by a vote of 3  
to 0 at its 1-24-80  
meeting.

CALENDAR ITEM

27.

1/80  
PRC 4886.1  
Faber

AUTHORIZATION TO FORECLOSE ON  
SURETY BONDS GUARANTEEING LESSEE'S  
PERFORMANCE OF LEASE OBLIGATIONS

AREA, TYPE LAND AND LOCATION:

1.77 acres of tide and submerged land in  
San Pablo Bay at Hercules, Contra Costa  
County.

LAND USE:

Maintenance and operation of a pier which  
supports a pump house and a salt water pipeline  
used for cooling purposes.

FACTUAL BACKGROUND:

On December 15, 1976, the State Lands Commission authorized  
the assignment of a lease from Hercules Incorporated to  
Valley Nitrogen Producers, Inc., (VNP). The lease involved  
the Hercules Pier which is about eight hundred (800) feet  
in length.

Under the terms of the assignment, VNP was obligated  
to submit a plan for repairing the pier or removing and  
rebuilding it. VNP was then to carry out the approved plan  
within a reasonable time. Pursuant to the lease VNP was  
then obligated to maintain the pier in a safe condition.  
To date, no plan has been submitted.

In October, 1979, VNP filed a petition in Federal  
Bankruptcy Court for a corporate reorganization. On December 13,  
1979, VNP made a request of the court to reject its lease  
with the State Lands Commission. The court authorized the  
rejection. Such an action automatically places the lessee  
in breach and gives rise to the need to foreclose on VNP's  
performance bond. The pier is currently in a state of dis-  
repair and has been set afire on several occasions.

By a letter dated December 19, 1979, the staff has  
made a demand on the surety company which guaranteed VNP's  
performance. As of this date the surety company, Fireman's  
Fund Insurance Company, has not performed under the terms  
of the bond. The amount of the bond (#SMR 632 24 55) is  
fifty thousand dollars (\$50,000).

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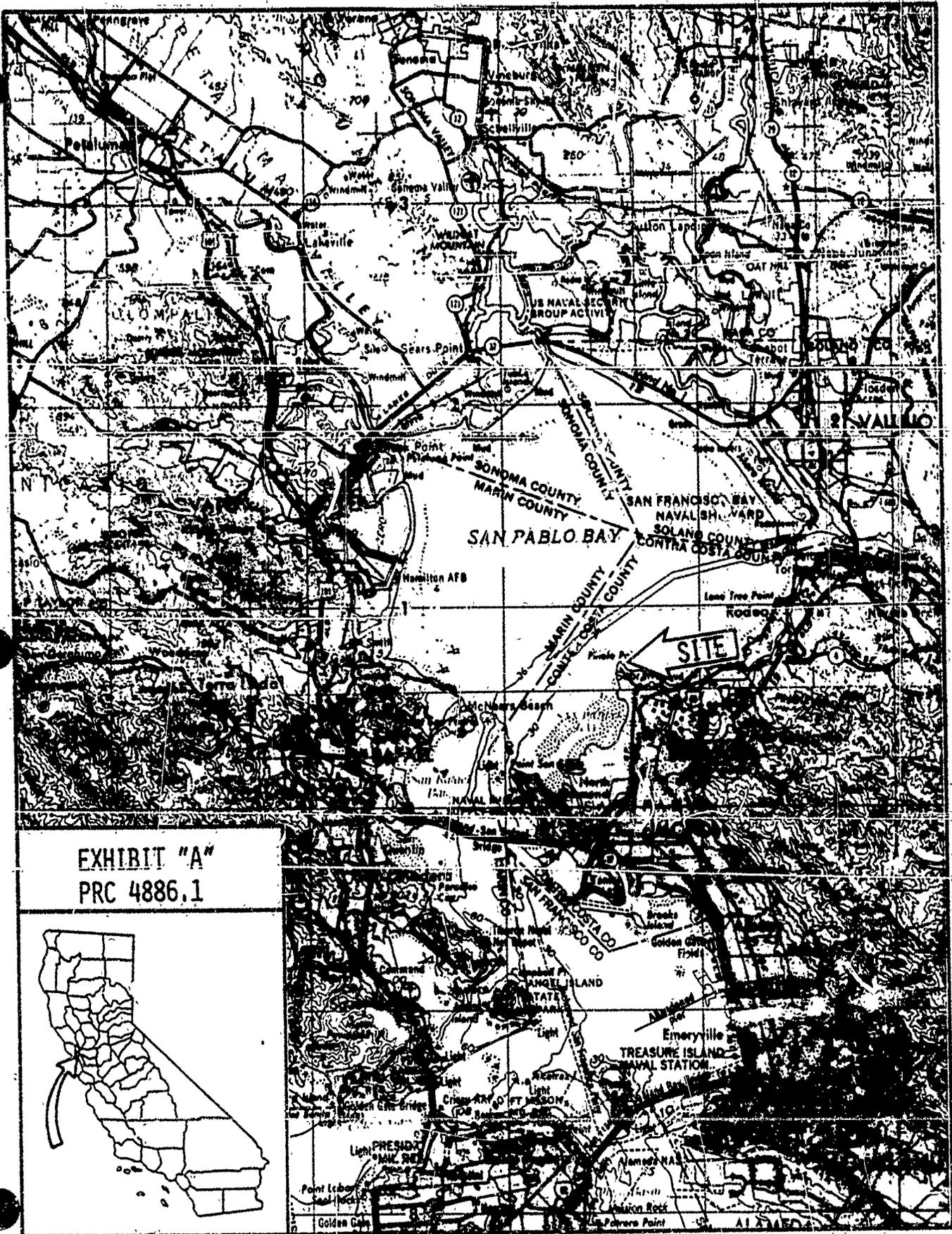
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CALENDAR ITEM NO. 27. (CONTD)

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION AUTHORIZE:

1. THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE ATTORNEY GENERAL'S OFFICE TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO FORECLOSE ON FIREMAN'S FUND INSURANCE COMPANY BOND # SMR 632 26 55, AND RECOVER THE FIFTY THOUSAND DOLLARS (\$50,000) DUE AND OWING UNDER SAID BOND.
2. THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE ATTORNEY GENERAL'S OFFICE TO TAKE ALL STEPS, INCLUDING LITIGATION, TO ENFORCE ANY RIGHTS THE STATE MAY HAVE AGAINST VALLEY NITROGEN PRODUCERS, INC., HERCULES INCORPORATED, AND SEABOARD SURETY COMPANY, SURETY FOR HERCULES INCORPORATED.



**EXHIBIT "A"**  
**PRC 4886.1**



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