

MINUTE ITEM

This Calendar item No. C22
was approved as Minute Item
No. 22 by the State Lands
Commission by a vote of 3
0 at its 3/26/87
meeting.

CALENDAR ITEM

C22

03/26/87
WP 5096
Martinez

A 4
S 2

AMENDMENT OF MAINTENANCE DREDGING PERMIT

APPLICANT: Benicia Port Terminal Company
P. O. Box 315
Benicia, California 94510

AREA, TYPE LAND AND LOCATION:
Tide and submerged lands in Carquinez Strait at
the Benicia Port Terminal Dock, City of Benicia,
Solano County.

TERM OF ORIGINAL PERMIT:
Initial Period: Five years commencing
January 1, 1983.

LAND USE: Dredge 90,000 cubic yards of minerals other
than oil, gas and geothermal for maintenance of
navigable depth at the Benicia Port Terminal
Dock with spoils deposited at the United States
Army Corps of Engineers Disposal Site S.F.-9.

CONSIDERATION: Royalty of \$0.15 per cubic yard for spoils
placed at the approved Corps of Engineers Site.

Royalty of \$0.25 per cubic yard for spoils
placed on private property or sold for
commercial benefit.

PROPOSED AMENDMENT:
No royalty charged for spoils placed at the
approved Corps of Engineers Site.

Royalty of \$0.25 per cubic yard for spoils
placed on private upland property or sold for
commercial benefit.

(PAGES 95-95.10)
(ADDED 03/18/87)

-1-

(NON-SUBSTANTIVE REVISION 03/31/87)

CALENDAR PAGE	<u>95</u>
MINUTE PAGE	<u>852</u>

CALENDAR ITEM NO. C22 (CONT'D)

The proposed change in royalty rate reflects the current dredging policy adopted by the State Lands Commission on September 25, 1986.

All other terms and conditions of the existing permit are to remain unchanged.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

No filing or processing fees are required since the proposed amendment is in response to the newly adopted Commission policy.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

APPROVALS OBTAINED:

No other approvals required.

EXHIBITS:

- A. Vicinity and Site Map.
- B. Amendment.
- C. Dredging Permit.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.

(ADDED 03/18/87)

-2-

CALENDAR PAGE	95.1
MINUTE PAGE	853

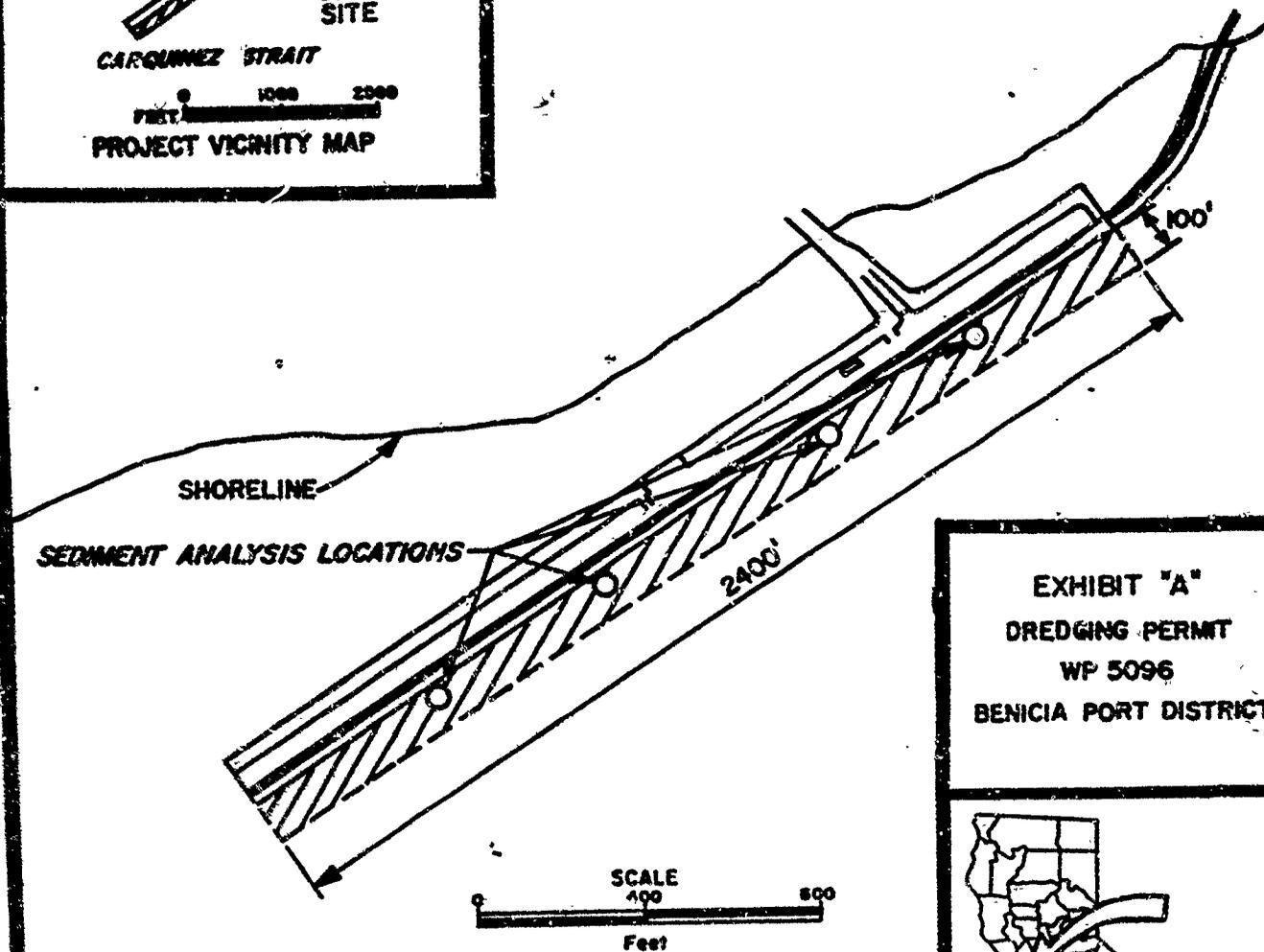
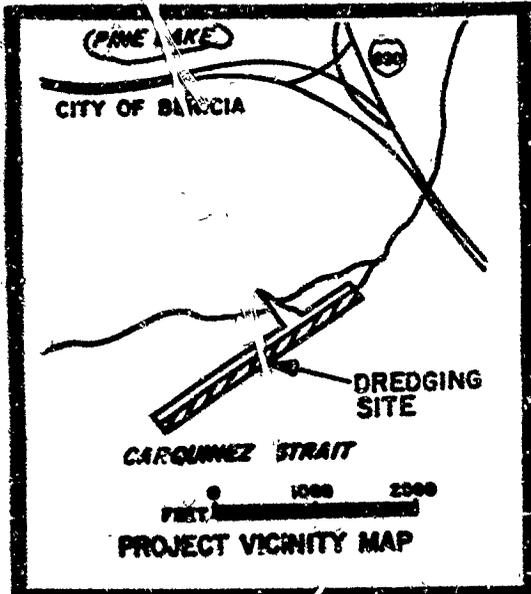
CALENDAR ITEM NO. 022 (CONT'D)

2. AUTHORIZE STAFF TO ISSUE TO THE BENICIA PORT TERMINAL COMPANY THE DREDGING PERMIT AMENDMENT ATTACHED AS EXHIBIT "C". SAID AMENDMENT CHANGES THE ROYALTY RATE TO BE CHARGED AS REFLECTED IN THE DREDGING POLICY OF THE STATE LANDS COMMISSION ADOPTED SEPTEMBER 25, 1986. ALL OTHER TERMS AND CONDITIONS OF THE EXISTING PERMIT ARE TO REMAIN UNCHANGED.

(ADDED 03/18/87)

-3-

CALENDAR PAGE	95.2
MINUTE PAGE	854



LEGEND
DREDGING SITE

EXHIBIT "A"
DREDGING PERMIT
WP 5096
BENICIA PORT DISTRICT



April 1, 1987

File Ref.: PRC 5096

AMENDMENT TO DREDGING PERMIT

WHEREAS, Dredging Permit WP 5096 was issued to the Benicia Port Terminal Company, effective January 1, 1983 to December 30, 1987, granting permission to perform maintenance dredging in Carquinez Strait, Solano County with spoils to be deposited at the U. S. Army Corps of Engineers Disposal Site S. F. 9; and

WHEREAS, the Benicia Port Terminal Company has requested a change in the royalty rate to reflect the current dredging policy of the State Lands Commission;

NOW, THEREFORE, the parties hereto agree that paragraph two of Dredging Permit WP 5096 which reads as follows:

A royalty of \$0.15 per cubic yard will be assessed for material removed from State-owned land and placed at the Corps Disposal Site, and a royalty of \$0.25 per cubic yard shall be paid for material placed on private property or used for any private or commercial benefit. Said permission is given on the condition that all dredging and spoils deposition shall be done in accordance with all applicable Federal, State and local government laws, rules and regulations. Said permission shall be effective from January 1, 1983, through December 30, 1987.

Shall be amended to read:

Said permission is given on the condition that all dredging and spoils deposition shall be done in accordance with all applicable Federal, State and local government laws, rules and regulations. Said permission shall be effective from January 1, 1983, through December 30, 1987. From and after April 1, 1987, no royalty will be assessed for material removed from State-owned land and placed at the Corps Disposal Site, and a royalty of \$0.25 per cubic yard shall be paid for material placed on private upland property or used for any private or commercial benefit.

Except as herein modified, all other terms and conditions of the permit shall remain in effect.

STATE OF CALIFORNIA
STATE LANDS COMMISSION

W. M. THOMPSON, Chief
Extractive Development Program

Date: _____

ACCEPTED: BENICIA PORT TERMINAL COMPANY

By: _____

Title: _____

Date: _____

CALENDAR PAGE	95.4
MINUTE PAGE	856

"C"

January 1, 1983

File Ref.: WP 5096

Benicia Port Terminal Company
P. O. Box 315
Benicia, California 94510

Gentlemen:

Pursuant to your application dated October 21, 1982, and by the authorization of the State Lands Commission, you are hereby granted permission to dredge a maximum of 300,000 cubic yards to maintain the channel from an area of tide and submerged lands in Benicia Port Terminal, Carquinez Strait, Solano County, as described and designated respectively in Exhibits A and B attached hereto, which are by this reference expressly made a part hereof. Said permission includes the right to deposit said material at the authorized U.S. Army Corps of Engineers Disposal Site S.F. 9 in Carquinez Strait.

A royalty of \$0.15 per cubic yard will be assessed for material removed from State-owned land and placed at the Corps Disposal Site, and a royalty of \$0.25 per cubic yard shall be paid for material placed on private property or used for any private or commercial benefit. Said permission is given on the condition that all dredging and spoils deposition shall be done in accordance with all applicable Federal, State and local government laws, rules and regulations. Said permission shall be effective from January 1, 1983, through December 30, 1987.

The permission to dredge the above-described lands is based upon information presently available to the State Lands Commission, and is given without survey or title determination. Such permission shall not be construed as fixing State land boundaries or as necessarily establishing the extent of the State's claim to property in the area. The State warrants neither the title to the demised premises

CALENDAR PAGE	95.5
MINUTE PAGE	857

nor any right you may have to possession or quiet enjoyment of the same.

It is hereby agreed that the operations authorized under this permit shall be performed with diligence, in a good and workmanlike manner, and with the use of due care and safety precautions.

It is further agreed that you shall submit reports substantiating the volume of materials dredged and any royalties due to the Commission on a quarterly basis, on forms supplied by the Commission (Form 30.9 NC). It is agreed that you shall submit said forms on or before the twenty-fifth (25th) day of the month following the end of each permit quarter, together with payment for the royalty due on the volume removed during that quarter. The first permit quarter shall be the first three months following the effective date of this permit, and every three-month period thereafter shall be a permit quarter.

It is hereby agreed that, pursuant to Public Resources Code Section 6224, any installments of royalty accruing under the provisions of this permit that are not paid when due shall be subject to a five percent (5%) penalty and shall bear interest at the rate of one percent (1%) per month from the date when the same was payable by the terms hereof.

It is agreed that you shall furnish the Commission with copies of final surveys or copies of any other computations used as a basis to verify dredge volumes within twenty-five (25) days of completion of the activity authorized hereunder.

It is agreed that you shall indemnify, save harmless and, at the option of the State of California, defend said State, its officers, agents and employees, against any and all claims, demands, causes of action, or liability of any kind which may be asserted against or imposed upon the State of California or any of its officers, agents or employees by any third person or entity, arising out of or connected with the issuance of this permit, operations hereunder, or the use by you or your agents, employees or contractors, of the above described lands.

Without limiting the generality of the foregoing, such indemnification shall include any claim, demand, cause of action or liability of any kind asserted against or impounded upon the State of California or any of its officers, agents or employees arising out of or connected with any alleged or actual violation by you, your agents, employees or contractors of the property or contractual rights of any third person or entity. It is agreed that you shall, at the option of the Commission, procure and maintain liability insurance for the benefit of the State in an amount satisfactory to the Commission.

CALENDAR PAGE	95.6
MINUTE PAGE	858

You agree to comply with the terms and conditions hereof, and you further agree that any violation thereof shall constitute grounds for termination of this permit and shall allow the Commission to pursue any other remedy available to it under the law. It is further agreed that this permit may be suspended, modified or terminated whenever the State Lands Commission deems such action to be in the best interests of the State, and that no such action by the Commission shall be deemed to be a basis for any claim or cause of action for damages against the State or any officer, employee or agency thereof.

STATE OF CALIFORNIA
STATE LANDS COMMISSION

W. M. Thompson
W. M. THOMPSON
Chief
Extractive Development
Program

MARCH 30, 1983
DATE

ACCEPTED:

BY [Signature]
TITLE Vice President
DATE December 29, 1982

Mailed in Triplicate

Attachments: EXHIBITS _____

Enclosures: 30.9 Forms

4111

FILE COPY	
APPROVED:	
Section Head	<u>[Signature]</u>
Legal (ACC)	<u>J. P. [Signature]</u> <u>ACC</u> <u>JAG</u>

CALENDAR PAGE	<u>95.7</u>
MINUTE PAGE	<u>859</u>

EXHIBIT "A"

LAND DESCRIPTION

WP 5096

A parcel of tide and submerged land in the State-owned bed of Carquinez Strait lying immediately adjacent to and southerly of Benicia Port Terminal Company's Pier 91, and being more particularly described as follows:

BEGINNING at the southeast corner of Benicia Port Terminal Company's Pier 91; thence S 56° 38' 20" W, 1000 feet; thence S 33° 21' 40" E, 150 feet; thence N 56° 38' 20" E, 1150 feet; thence N 33° 21' 40" W, 150 feet; thence S 56° 38' 20" W, 150 feet to the point of beginning.

END OF DESCRIPTION

REVIEWED DECEMBER 2, 1982 BY BOUNDARY AND TITLE UNIT, LEROY WEED, SUPERVISOR

CALENDAR PAGE	95.8
MINUTE PAGE	800

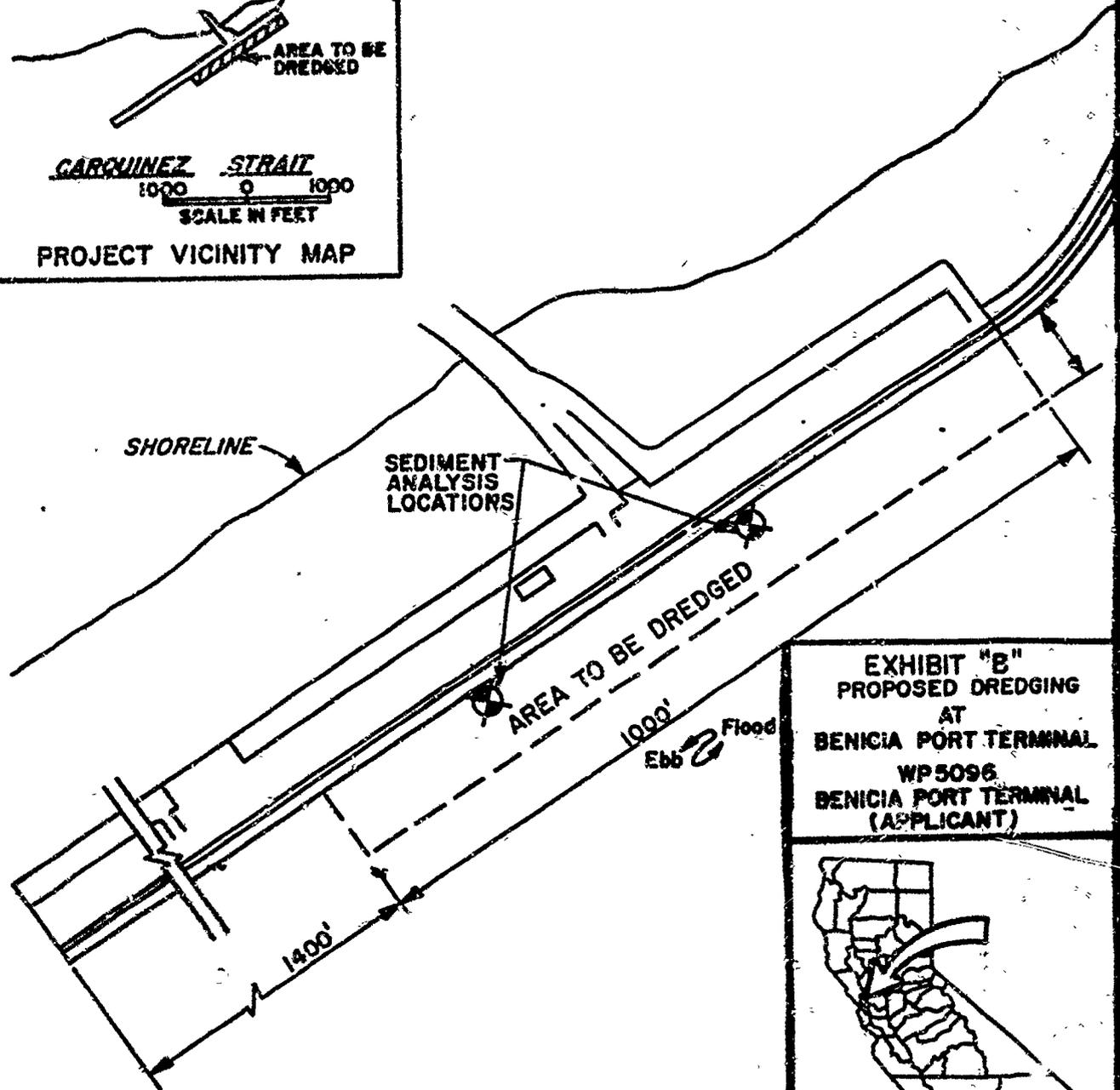
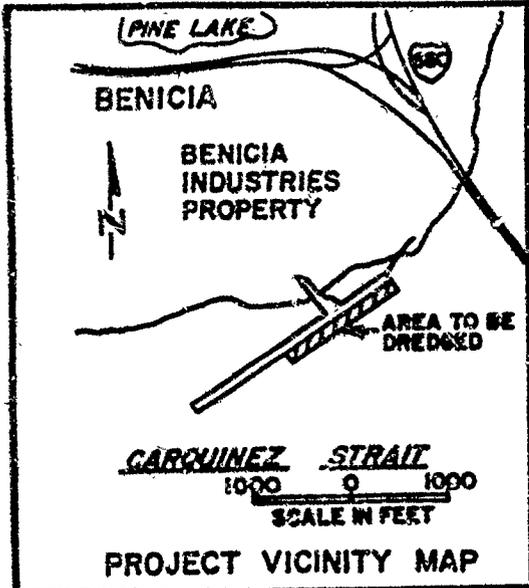


EXHIBIT "B"
 PROPOSED DREDGING
 AT
 BENICIA PORT TERMINAL
 WP5096
 BENICIA PORT TERMINAL
 (APPLICANT)



STATE LANDS COMMISSION

W. J. DRY, Controller
LEO T. MCCARTHY, Lieutenant Governor
JESSE R. HUFF, Director of Finance

EXECUTIVE OFFICE
1807 - 13th Street
Sacramento, California 95814

CLAIRE T. DEORICK
Executive Officer



May 15, 1984

File Ref.: WP 5096

Benicia Port Terminal Company
P. O. Box 315
Benicia, California 94510

Gentlemen:

Pursuant to your request of May 7, 1984, to increase the allowed volume of Dredging Permit PRC 5096, issued on March 24, 1983, from 60,000 cubic yards per year to 90,000 cubic yards per year, you are hereby granted an amendment of the term of said permit from 60,000 cubic yards to 90,000 cubic yards per year to be dredged twice yearly, to allow for removal of excessive storm-washed material. This modification is authorized provided that all work is conducted in accordance with all applicable permits, recommendations or limitations issued by the Federal, State, local or governmental agencies. All other terms, conditions and requirements of Dredging Permit WP 5096 remain unchanged and in full force and effect.

W. M. THOMPSON, CHIEF
EXTRACTIVE DEVELOPMENT PROGRAM

ACCEPTED: _____

DATE: _____

BY: _____

TITLE: _____

DATE: _____

MAILED IN TRIPLICATE

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CALENDAR PAGE	95.10
MINUTE PAGE	862