

MINUTE ITEM
This Calendar Item No. 29
was approved as Minute Item
No. 29 by the State Lands
Commission by a vote of 3
to 0 at its 8/10/88
meeting.

CALENDAR ITEM

A 11

29

08/10/88
WP 600 W 23770
Bancroft PRC 600
Horn

3 7

GENERAL LEASE INDUSTRIAL

APPLICANT: Union Oil Company
dba UNOCAL
Box 7600
Los Angeles, California 90017

AREA, TYPE LAND AND LOCATION:
0.348 acre of tide and submerged land, located
in San Pablo Bay at Davis Point, Contra Costa
County.

LAND USE: Waste water outfall line and diffuser to be
attached to the piers of the existing wharf.

TERMS OF PROPOSED LEASE:

Initial period: 30 years beginning
September 1, 1988.

Surety bond: \$25,000.

Public liability insurance: Combined single
limit coverage of \$1,000,000.

Special: (a) The Commission and
UNOCAL are currently
negotiating a new lease for
the operation and maintenance
of the pier and marine
terminal facility upon which

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(ADDED 8/9/88 pgs. 245-245.9)

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CALENDAR ITEM NO. 29 (CONT'D)

the water outfall authorized by this lease is to be constructed. Staff recommends an extension of the existing lease for marina terminal operations until September 30, 1988. In the event a new marine terminal lease is negotiated and approved, then the pipeline outfall authorized by this lease will be included in the new marine terminal lease, and this lease shall automatically terminate.

Provided, however, that this lease is not intended, nor shall it be construed, to be a commitment, prior approval, or any other form of

inference to issue a new marine terminal lease. And if no new marine terminal lease is authorized, then this lease is intended only to allow the construction, operation, and maintenance of the water outfall. The Commission has agreed to issue this lease only because UNOCAL is under a cease and desist order from the Regional Water Quality Control Board and UNOCAL asserts that it is unable to obtain its other permits unless the Commission authorizes the construction of the outfall. UNOCAL expressly acknowledges and agrees to the provisions of this paragraph.

CONSIDERATION: \$2,049 per annum; with five-year rent review.

CALENDAR ITEM NO. 2.9 (CONT'D)

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Adm. Code 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Environmental costs have been received.

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:

08/13/88.

OTHER PERTINENT INFORMATION:

1. An EIR was prepared for the pipeline outfall project under the direction of SLC staff. This process included:
Distribution of Notice of Preparation 17 March 1986
Return of Agency Comments 17 April 1986
Distribution of Draft EIR 13 July 1987
Public Meeting on Draft 10 August 1987
Return of Public Comments 28 August 1987
Distribution of Response to Comments 16 March 1988

In addition, several meetings were held with the staff of the SFRWQCB and the regional Fish and Game office to coordinate, as closely as closely as possible, the finding in this EIR.

3. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. project, as proposed, is consistent with its use classification.

FURTHER APPROVALS REQUIRED:

San Francisco Bay Conversation and Development Commission (BCDC), and United States Army Corps of Engineers.

CALENDAR ITEM NO. 29 (CONT'D)

EXHIBITS:

- A. Land Description.
- B. Plat of Lease Area.
- C. Environmental Mitigation List

IT IS RECOMMENDED THAT THE COMMISSION:

1. CERTIFY THAT AN EIR, STATE CLEARINGHOUSE NO. 86030410, WAS PREPARED FOR THIS PROPOSED WASTE WATER PIPELINE AND DIFFUSER PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. FIND THAT THE PERFORMANCE OF THE MITIGATION MEASURES LISTED IN EXHIBIT "C" IS REQUIRED.
3. FIND THAT THE COMMISSION AND UNOCAL ARE CURRENTLY NEGOTIATING A NEW LEASE FOR THE OPERATION AND MAINTENANCE OF THE PIER AND MARINE TERMINAL FACILITY UPON WHICH THE WATER OUTFALL AUTHORIZED BY THIS LEASE IS TO BE CONSTRUCTED. IN THE EVENT SUCH A NEW LEASE IS NEGOTIATED AND APPROVED, THEN THE PIPELINE OUTFALL AUTHORIZED BY THIS LEASE WILL BE INCLUDED IN THE NEW MARINE TERMINAL LEASE AND THIS LEASE SHALL AUTOMATICALLY TERMINATE. PROVIDED, HOWEVER, THAT THIS LEASE IS NOT INTENDED, NOR SHALL IT BE CONSTRUED, TO BE A COMMITMENT, PRIOR APPROVAL, OR ANY OTHER FORM OF INFERENCE TO ISSUE A NEW MARINE TERMINAL LEASE. AND IF NO NEW MARINE TERMINAL LEASE IS AUTHORIZED, THEN THIS LEASE IS INTENDED ONLY TO ALLOW THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF THE WATER OUTFALL. THE COMMISSION HAS AGREED TO ISSUE THIS LEASE ONLY BECAUSE UNOCAL IS UNDER A CEASE AND DESIST ORDER FROM THE REGIONAL WATER QUALITY CONTROL BOARD AND UNOCAL ASSERTS THAT IT IS UNABLE TO OBTAIN ITS OTHER PERMITS UNLESS THE COMMISSION AUTHORIZES THE CONSTRUCTION OF THE OUTFALL. UNOCAL EXPRESSLY ACKNOWLEDGES AND AGREES TO THE PROVISIONS OF THIS PARAGRAPH.
4. FIND THAT CHANGES OR ALTERATIONS THAT WOULD BE REQUIRED TO AVOID OR SUBSTANTIALLY LESSEN THE IMPACTS OF THE WASTE WATER OUTFALL PROJECT, FALL WITHIN THE RESPONSIBILITY AND JURISDICTION OF THE SAN FRANCISCO REGIONAL WATER QUALITY CONTROL BOARD, AND NOT THE STATE LANDS COMMISSION.
5. FIND THAT IF THE SAN FRANCISCO REGIONAL WATER QUALITY CONTROL BOARD DOES NOT IMPLEMENT THE CHANGES, ALTERATIONS, AND/OR MITIGATION MEASURES WITHIN NINETY (90) DAYS AFTER THIS APPROVAL, THEN THESE CHANGES, ALTERATIONS, AND/OR MITIGATION MEASURES SHALL BE REQUIRED BY THE COMMISSION'S LEASE.

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6. DETERMINE THAT THE WASTE WATER OUTFALL PROJECT, AS PROPOSED, WILL NOT HAVE A SIGNIFICANT DETRIMENTAL EFFECT ON THE ENVIRONMENT.
7. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.
8. AUTHORIZE ISSUANCE TO UNION OIL COMPANY OF CALIFORNIA, DBA UNOCAL, OF A 30-YEAR GENERAL LEASE - INDUSTRIAL USE BEGINNING SEPTEMBER 1, 1988; IN CONSIDERATION OF A RENTAL RATE OF \$2,049 PER ANNUM; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A \$25,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; THE CONSTRUCTION AND OPERATION OF A NEW WASTE WATER OUTFALL AND DIFFUSER, ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
9. FIND THAT AN EXTENSION OF ITS EXISTING LEASE UNTIL SEPTEMBER 30, 1988 WAS PREVIOUSLY APPROVED AND SINCE THE COMMISSION AND UNOCAL HAVE NOT NEGOTIATED AN ACCEPTABLE NEW LEASE FOR THE USE, OPERATION, AND MAINTENANCE OF THE EXISTING MARINE TERMINAL FACILITY; AND, THEREFORE, TO THE EXTENT UNOCAL HAS APPLIED FOR A NEW MARINE TERMINAL LEASE, SUCH APPLICATION IS DENIED WITHOUT PREJUDICE.

**EXHIBIT "A"
LAND DESCRIPTION**

WP 600

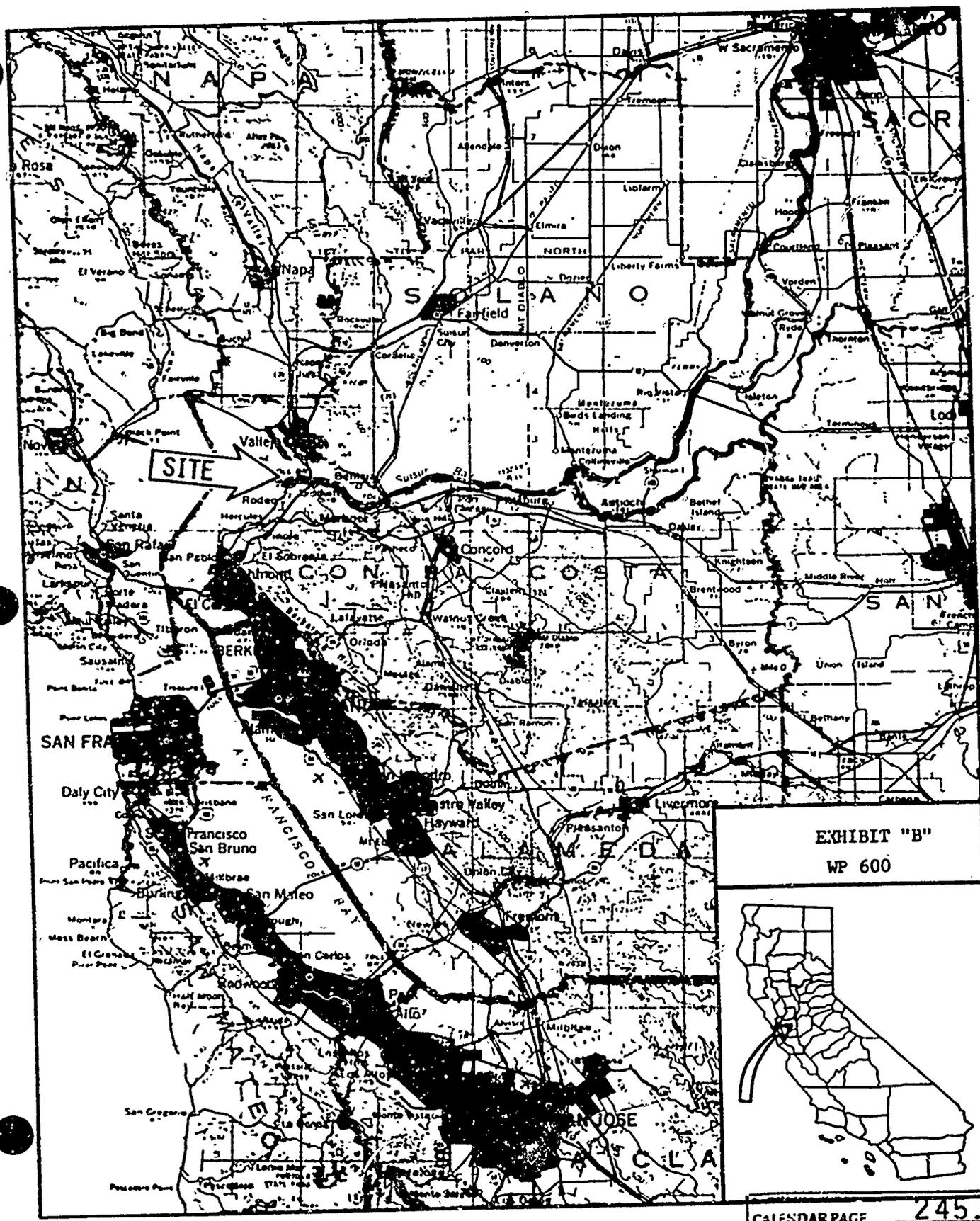
An 11.5 foot strip of tide and submerged land in the bed of San Pablo Bay - Carquinez Strait lying immediately beneath a proposed wastewater outfall and defuser, said outfall and defuser being attached to the existing pier at Davis Point lying adjacent to and northerly of that parcel of land described in the Deed to Union Oil Company of California, recorded in Book 90, page 552 of Deeds, Contra Costa County Records.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of San Pablo Bay - Carquinez Strait.

END OF DESCRIPTION

PREPARED 8/4/88, BY BIU # 1

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SITE

EXHIBIT "B"
WP 600



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EXHIBIT "C"

CEQA FINDINGS

WP 600

These findings are made by the State Lands Commission pursuant to Section 15901, Title 14, California Administrative Code, on the proposed deep water outfall EIR for the UNOCAL refinery at Rodeo, California. All significant impacts of the projects identified in the EIR are listed and discussed.

For each significant impact, one of the following findings have been made as appropriate:

- 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- 3) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

IMPACT: During construction of the project, dredging to emplace the outfall and diffuser would disturb severely contaminated sediments. These sediments would become suspended in the water column and the toxic material could be redistributed throughout the San Pablo Bay system.

FINDINGS: 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

FACTS SUPPORTING THE FINDING:

Based on work performed for the EIR, Unocal has changed the project. Suspending the pipeline and diffuser system from Unocal's existing pipeline and diffuser system from Unocal's existing wharf at the required depth eliminates any dredging and thus any disturbance or resuspension of the contaminated sediments.

IMPACT: Unocal's discharge, which has been found to contain toxic components will continue under the proposed project as it is currently.

- FINDINGS:**
- 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency, specifically the San Francisco Regional Quality Control Board, and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

FACTS SUPPORTING THE FINDING:

Although the EIR verifies that construction of a deepwater outfall with a diffuser system will improve water quality within the shallow waters of Rodeo Cove, where the effluent is currently flowing over the beach, it will not decrease the total amount of toxic components being discharged into the Carquinez Strait or San Pablo Bay.

The EIR recommends that a phased Toxicity Reduction and Evaluation (TRE) be established under the guidance of the SFRWQCB (add p. 30). This mitigation constitutes a reasonable and prudent effort to reduce the amount of toxic material currently being released into San Pablo Bay and should be considered by the SFRWQCB.

IMPACT: The cumulative effect of the Unocal discharge, when added to other manmade toxic sources found in the Carquinez Straits and San Pablo Bay would remain the same with or without the proposed project. However, concentration of pollutants in the water column and sediments would be lower than at present over much of the potentially affected area as a result of the proposed project.

- FINDINGS:**
- 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

- 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency, specifically the San Francisco Regional Quality Control Board, and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

FACTS SUPPORTING THE FINDING:

As discussed above, there will be no immediate reduction in the amount of toxic materials released into the San Pablo Bay system. There will, however, be an immediate cessation of toxic releases into Rodeo Cove, a greater dilution of effluent at the time of release, and a long-term reduction in toxicity as the proposed mitigation is implemented.

ADDITIONAL RECOMMENDATIONS:

Although not mitigations of the effects of the immediate project, the EIR makes three additional recommendations for longer-term studies that the SFRWQCB should require in their permit to evaluate the TRE and the additional treatment facilities being constructed by Unocal. These include fish distribution studies, monitoring of sediments at the new diffuser site, and confirmation of dilution and diffusion modelling using tracer techniques. These studies, and the rationales for each, are discussed in the EIR on pages Add-3, 4 and 26 (fish distribution; Add-30 (sediment monitoring) and Add-43 (dye studies).

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