

MINUTE ITEM
This Calendar Item No. 17
was approved as Minute Item
No. 17 by the State Lands
Commission by a vote of 3
0 at its 11/17/1990
meeting.

CALENDAR ITEM

17

A 58
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01/17/90
WP 3265- PRC 3265
Townsend

FIFTH AMENDMENT AND SECOND RENEWAL OF
GENERAL LEASE - COMMERCIAL USE

APPLICANT: Mariner's Point, a California general
partnership
Attn: D. R. Nuss
15922 Pacific Coast Highway
Huntington Harbour, California 92649

AREA, TYPE LAND AND LOCATION:
A 0.115-acre parcel of sovereign tide and
submerged land located in Sunset Bay, Orange
County.

LAND USE: The continued operation and maintenance of a
commercial fueling dock facility.

TERMS OF ORIGINAL LEASE:
Initial period: Fifteen (15) years beginning
April 1, 1965.
Renewal options: Three (3) successive periods
of ten (10) years each, with
two remaining.
Surety bond: \$7,500.
Consideration: Annually, \$0.01 per gallon
for the first 100,000 gallons
of fuel sold, and \$0.015 per
gallon thereafter, with a
\$4,050 minimum annual rental;
five-year rent review.

CALENDAR ITEM NO. 7 (CONT'D)

TERMS OF PROPOSED LEASE:

Initial period: Ten (10) years beginning April 1, 1990.

Surety bond: \$25,000.

Public liability insurance: Combined single limit coverage of \$2,000,000.

CONSIDERATION: Annually, \$0.01 per gallon for the first 100,000 gallons of fuel sold and \$0.015 per gallon thereafter; five percent (5%) per annum of all other Gross Income attributable to the Lease Premises; with \$4,050 minimum annual rental with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee has been received.

STATUTORY AND OTHER REFERENCES:

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

AB 884:

N/A.

OTHER PERTINENT INFORMATION:

1. General Lease - Commercial Use PRC 3265 was originally issued to Shell Oil Company for a period of 15 years beginning April 1, 1965, and amended shortly thereafter. The lease was subsequently amended and renewed for a period of ten (10) years, beginning April 1, 1980. In 1981, the lease was amended and assigned to Ron Schirmer and, in 1983, assigned from Ron Schirmer to Mariner's Centre, Ltd., and again to Miller-Nahas, a California general partnership. The new lessee removed the

CALENDAR ITEM NO. 17 (CONT'D)

Shell Gas Station located on the adjacent upland and constructed a three-story mixed-use retail and office building. The marine fueling dock, under lease by the State, has continued in operation from the inception of the lease. In 1985, the minimum annual rental was increased from \$3,600 to \$4,050, with the percentages to the State for sales of fuel remaining unchanged.

Miller-Nahas has, via an amended statement of partnership, changed its name to Mariner's Point. In accordance with the terms of its lease, the Lessee has provided six months written notice to staff of the Commission of its desire to exercise the second renewal option of ten years, beginning April 1, 1990. The proposed Fifth Amendment and Second Renewal of Lease PRC 5265 (on file in the main offices of the State Lands Commission) incorporates present-day leasing requirements, including an increase in the surety bond to \$25,000 and comprehensive public liability insurance to \$2,000,000 combined single limit coverage. Lessee shall pay annual rental in the amount of \$.01 per gallon of fuel sold during the reporting period to a maximum of 100,000 gallons and \$.015 per gallon thereafter; five percent (5%) of all other Gross Income attributable to the Lease Premises; with \$4,050 minimum annual rent. All other terms and conditions of the lease shall remain unchanged and in full force and effect.

The current lessee has been responsible in upholding the terms and conditions of its lease. Staff recommends the Commission approve the proposed amendment and ten-year renewal.

2. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant lands.

3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facility, 2 Cal. Code Regs 2905(a)(2).

Authority: P.R.C. 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.

- EXHIBITS:
- A. Land Description.
 - B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION.

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITY, 2 CAL. CODE REGS. 2905(a)(2).
2. AUTHORIZE THE FIFTH AMENDMENT AND SECOND RENEWAL OF GENERAL LEASE - COMMERCIAL USE PRC 3265 TO MARINER'S POINT, A CALIFORNIA GENERAL PARTNERSHIP, ON FILE IN THE MAIN OFFICES OF THE STATE LANDS COMMISSION FOR A PERIOD OF TEN (10) YEARS, BEGINNING APRIL 1, 1990; IN CONSIDERATION OF ANNUALLY, \$0.01 PER GALLON FOR THE FIRST 100,000 GALLONS OF FUEL SOLD AND \$0.015 PER GALLON THEREAFTER; FIVE PERCENT (5%) OF ALL OTHER GROSS INCOME ATTRIBUTABLE TO THE LEASE PREMISES; WITH \$4,050 MINIMUM ANNUAL RENTAL, 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 \$2,000,000; FOR THE CONTINUED OPERATION AND MAINTENANCE OF A COMMERCIAL FUELING DOCK FACILITY LOCATED ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT "A"

WP 3265

LAND DESCRIPTION

A parcel of submerged land in Sunset Bay, Orange County, California, situate adjacent to Tideland Location No. 141 and being further described as follows:

BEGINNING at the terminal point of the last course recited in that Boundary Line Agreement between the State of California and the Lincoln Fidelity Corporation, said agreement being on file with the State Lands Commission as "Boundary Line Agreement No. 46", said last course having a bearing of N 52°45' 00" W and a length of 850.25 feet; thence from said point of beginning proceeding into Sunset Bay N 37°15' E, 50 feet; thence S 52°45' E, 100 feet; thence S 37°15' W, 50 feet to the aforementioned agreed boundary line; thence along said line N 52°45' W, 100 feet to the point of beginning.

END OF DESCRIPTION

REVIEWED SEPTEMBER 15, 1989 BY BIU 1.

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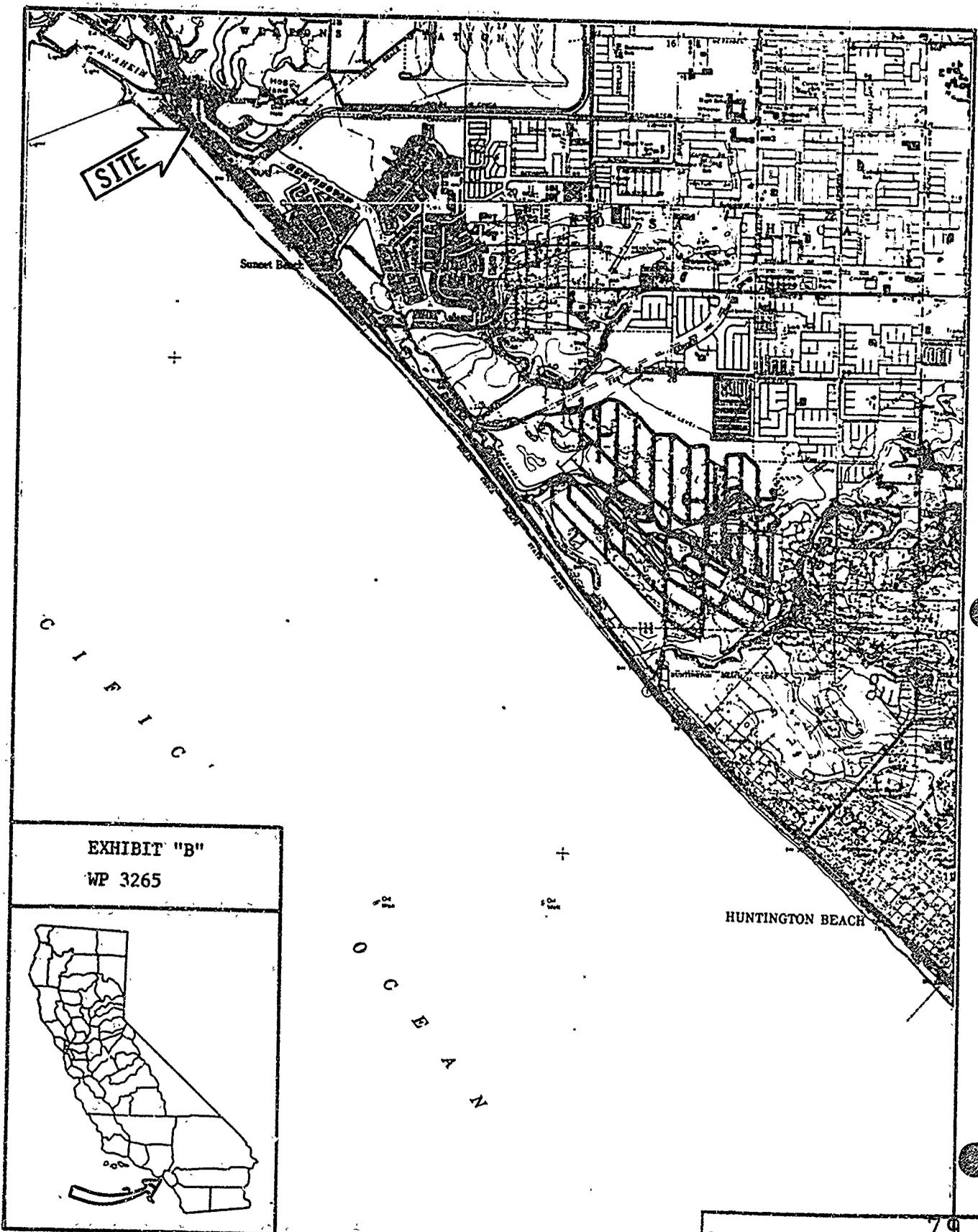


EXHIBIT "B"
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