

MINUTE ITEM
This Calendar Item No. 35
was approved as Minute Item
No. 35 by the State Lands
Commission by a vote of 3
to 2 at its 7/15/91
meeting.

CALENDAR ITEM

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07/15/91
PRC 4769
Townsend

ASSIGNMENT OF GENERAL LEASE - INDUSTRIAL USE PRC 4769
AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE
MEMORANDUM OF AMENDED LEASE
MODIFICATION OF ANNUAL LEASE RENTAL

ASSIGNOR:

Martinez Terminals Limited
2801 Waterfront Road
Martinez, California 94553

ASSIGNEE:

Wickland Oil Martinez L.P., a California
limited partnership
1765 Challenge Way
Sacramento, California 95853

AREA, TYPE LAND AND LOCATION:

A 5.04-acre parcel of tide and submerged lands in Suisun Bay
near Avon Refinery, Martinez, Contra Costa County.

LAND USE:

Marine petroleum wharf, together with appurtenances.

TERMS OF ORIGINAL LEASE:

Initial period:

Twenty-five (25) years beginning June 1, 1973.

Renewal options:

Two (2) successive periods of ten (10) years each.

Surety bond:

\$50,000.

Public liability insurance:

Combined single limit coverage of \$5,000,000.

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Consideration:
\$19,650 per annum; five-year rent review.

APPLICANT STATUS:
Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing fee and processing costs have been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 694:
N/A

OTHER PERTINENT INFORMATION:

1. By application submitted June 12, 1991, Martinez Terminals Limited (MTL) has requested an assignment of General Lease - Industrial Use PRC 4769 to Wickland Oil Martinez L.P., a California limited partnership, as part of an Internal Revenue Code Section 1031 tax deferred exchange. MTL will transfer its interest in the lease to Exchange Intermediary, Inc. (EII), the buyer's intermediary, at the close of escrow. EII will immediately transfer the Lessee's interest in the lease to Wickland Properties, and Wickland Properties will, in turn, immediately transfer the Lessee's interest in the lease to Wickland Oil Martinez L.P.

These transfers will occur simultaneously, as part of the close of escrow, and will not appear in the chain of title. Therefore, at the close of escrow, the lease will have been transferred to Wickland Oil Martinez L.P., the ultimate owner of the terminal and assignee of MTL's interest in the lease. The scheduled transfer date is August 1, 1991, the effective date of the assignment.

2. The proposed Assignee has additionally requested approval of an "Agreement and Consent to Encumbrancing of Lease", in the amount of \$30,000,000 for a term of

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eight years, for the acquisition of land and improvements. The lender group is comprised of (1) The Chase Manhattan Bank, N.A.; (2) NMB Postbank Groep N.V. (from Holland); and (3) Girozentrale und Bank der Osterreichischen Sparkassen A.G. (from Austria).

An Estoppel Certificate would be incorporated into the Encumbrancing Agreement and would provide that the lease is in full force and effect, and no default, breach, or other ground for termination exists. As a prerequisite of staff's recommendation for approval of the transaction, the parties have agreed to pay back rental in the amount of \$34,967.72, including interest, for the lease period June 1, 1988 through May 31, 1991. All other terms and conditions of the lease are current.

3. Lastly, for purposes of title insurance, the proposed Assignee has requested approval of the "Memorandum of Amended Lease". Staff has reviewed the Memorandum and found the document is acceptable as to form and accurate as to the history of the lease.
4. The parties have further agreed to a new negotiated rental in the amount of \$26,457 per annum, effective June 1, 1991. This rental shall remain in effect until June 1, 1993, the next fifth anniversary of the beginning date of the lease, at which time the State has the right to modify the method, amount, or rate of consideration.
5. 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.
6. 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 because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

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

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 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.
3. AUTHORIZE THE COLLECTION OF BACK RENTAL IN THE AMOUNT OF \$34,967.72, INCLUDING INTEREST, FOR THE LEASE PERIOD JUNE 1, 1988 THROUGH MAY 31, 1991, AND APPROVE A NEW RENTAL IN THE AMOUNT OF \$26,457 PER ANNUM, EFFECTIVE JUNE 1, 1991.
4. AUTHORIZE APPROVAL OF THE ASSIGNMENT OF GENERAL LEASE - INDUSTRIAL USE PRC 4769 FROM MARTINEZ TERMINALS LIMITED TO WICKLAND OIL MARTINEZ L.P., EFFECTIVE AUGUST 1, 1991, TOGETHER WITH APPROVAL OF AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE AND MEMORANDUM OF AMENDED LEASE IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICES OF THE STATE LANDS COMMISSION.

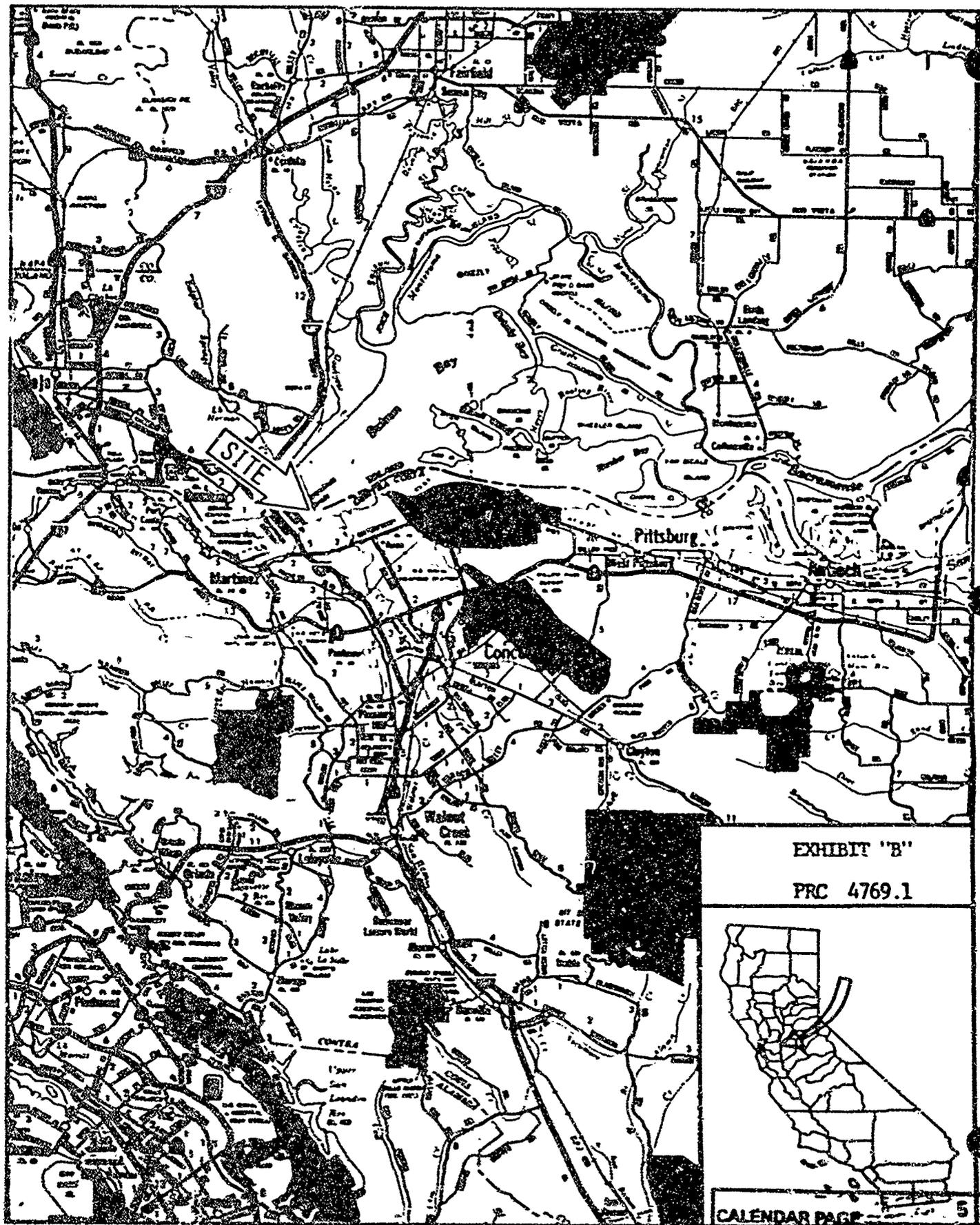


EXHIBIT "B"

PRC 4769.1



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