

MINUTE ITEM

This Calendar Item No. C40
was approved as Minute Item
No. 40 by the State Lands
Commission by a vote of 3
to 0 at its 11-9-93
meeting.

CALENDAR ITEM

C40

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S 7

11/09/93
PRC 4769
PRC 5735
Kiley

RATIFICATION OF AMENDMENT AND
CONSENT TO TRANSFER OF LIEN (LEASE NO. PRC 4769.1)
AND FOURTH AMENDMENT TO AGREEMENT
AND CONSENT TO ENCUMBRANCING OF LEASE PRC 5735.1
TO ACCOMMODATE RESTRUCTURING OF SECURED PARTY LENDER

PARTIES:

Wickland Oil Martinez L.P.,
Internationale Nederlander Bank, N.V. (Formerly known as
NMB Postbank Groep, N.V.), As agent for itself and for
Chase Manhattan Bank, N.A.
Girocredit Bank A.G. Der Sparkassen (formerly known as
Girozentrale und Bank der Oesterreichischen Sparkassen
A.G.),
Internationale Nederlanden (U.S.) Capital Corp.
First National Bank of Boston as Agent

BACKGROUND:

The Commission, on August 20, 1991, granted its consent to the encumbrancing of Lease PRC 4769.1 in favor of certain parties, including Internationale Nederlanden Bank, N.V. (formerly known as NMB Postbank Groep, N.V. and referred to herein in its individual capacity as "ING Bank", as Agent for itself and for the Chase Manhattan Bank, N.A. and Girocredit Bank A.G. Der Sparkassen (formerly known as Girozentrale Und Bank Der Oesterreichischen Sparkassen A.G.) (the "Banks") under that certain Loan Agreement (the "Loan Agreement") dated August 20, 1991 among the Lessee and the Banks to secure all obligations under the Loan Agreement, pursuant to an Agreement and Consent to Encumbrancing of Lease recorded August 20, 1991 as Instrument Number 91-167765 in the Official Records of Contra Costa County. The Banks are referred to herein as the "Secured Party Lenders".

ING Bank proposed to assign all of its rights as a Bank under the Loan Agreement to ING Capital and to resign as Agent under the Loan Agreement. The Banks agreed to elect ING Capital as successor Agent under the Loan Agreement. ING Bank and ING

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Capital requested the consent of the Lessee and the Lessor to the transfer of the lien encumbering the Lease from ING Bank, as Agent to ING Capital, as Agent. The proposal for transfer was occasioned by the fact that ING Bank was surrendering its federal branch office license as of October 31, 1993.

The staff was furnished with information concerning the proposed transaction and was satisfied that the Commission's interests would not be impaired by the proposed transaction. The proposed transaction was part of a significantly larger group of transactions involving the Secured Party Lenders. In order to meet the commercial needs of the various parties to the transaction, the Executive Officer has executed an Agreement and Consent to Transfer Lien, so that ING Bank could meet its commitment to surrender its federal branch office license at the required time.

In a related transaction, the approval by the Commission and the Bank of Boston, as Agent, of the above-described transaction was required by the terms of the Agreement and Consent to Encumbrancing of Lease PRC 5735.1, as amended, approved by the Commission on December 13, 1988 and recorded May 22, 1990 as Instrument Number 90-104619 in Book 15871, page 510 Official Records of Contra Costa County. The Executive Officer has executed the Fourth Amendment to Agreement and Consent to Encumbrancing of Lease PRC 5735.1 which provides for the approval of ING Capital as a Secured Party Lender under that agreement.

OTHER PERTINENT INFORMATION:

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.

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. RATIFY THE APPROVAL BY THE EXECUTIVE OFFICER OF THE AGREEMENT AND CONSENT TO TRANSFER OF LIEN, LEASE PRC 4769.1

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3. RATIFY THE APPROVAL BY THE EXECUTIVE OFFICER OF THE FOURTH AMENDMENT TO AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE PRC 5735.1.

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