

MINUTE ITEM  
This Calendar Item No. C92  
was approved as Minute Item  
No. 92 by the State Lands  
Commission by a vote of 3  
to 0 at its 11/15/94 CALENDAR ITEM  
meeting. C92

11/15/94  
WP 2869  
N. Smith  
PRC2869

S 7

TERMINATE LEASE PRC 2869 AND ISSUANCE OF A  
GENERAL LEASE - INDUSTRIAL USE

LESSEE:

Tosco Refining Company  
Avon Refinery  
Martinez, California 94553

ORIGINAL LEASE TERMS:

Area, Type Land and Location:  
A 1.16 acre parcel of tide and submerged lands located  
in Carquinez Straits, Pt. Carquinez near Port Costa,  
Contra Costa County.

LAND USE:

Maintenance and operation of an oil loading and unloading  
wharf and purposes incidental.

PREVIOUS LEASE TERMS:

Lease period:  
15 years with two 10-year renewal periods, beginning  
March 29, 1962.

Consideration:

\$198.60 per annum

PROPOSED LEASE TERMS:

Area, Type Land and Location:  
A 0.48 acre parcel of tide and submerged lands located  
in Carquinez Straits, Pt. Carquinez near Port Costa,  
Contra Costa County.

Land use:

Existing non-operational marine terminal wharf.

Lease period:

20 years beginning December 1, 1994.

Surety Bond:

\$50,000

Public liability insurance:

Combined single limit coverage of \$500,000.

CALENDAR ITEM NO. C92 (CONT'D)

**Consideration:**

\$3,770 per annum, 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.

**LESSEE STATUS:**

Lessee 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 884:

N/A

**OTHER PERTINENT INFORMATION:**

1. Tosco acquired this property in 1976. Changing conditions within Tosco and the oil industry have made the use of the facilities at this site uneconomical. Tosco has already removed the obsolete oil handling facilities from the adjacent upland site; therefore, there has been no terminal or other industrial activity at this site for quite a number of years.
2. Tosco desires, however, to retain this deep water facility, which could be used as a base to build upon, to install needed oil handling facilities to meet future requirements. It is proposed to hold this facility on a non-operational basis until needed. Tosco recognizes that additional approvals would be needed from the State Lands Commission and other governmental agencies to reactivate the facility and to construct and operate new facilities.

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3. Some time between 1978 and 1984, a fire partially destroyed the wharf. Tosco has fenced the area of the walkway from the direct upland access and has removed several feet of decking to separate the burned portion of the wharf from the remaining portion. Tosco has provided plans for the removal of the burned portion of the wharf, which are acceptable to staff. Tosco has had an underwater survey completed and the remaining portion of the wharf has been deemed to be in "good" condition.
4. Due to confusion on the part of both parties, rent for the existing facilities has not been received since 1986. The parties have negotiated a settlement of \$1,000 per year for eight years, or total of \$8,000 for back rent. Staff recommends that penalty and interest charges be waived as a part of the negotiated settlement.
5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), staff has determined that this activity is exempt from the requirements of the CEQA as a categorical exempt project under Class 1, existing facilities, 2 Cal. Code Regs. 2905 (a)(2) and, Class 1, partial removal, 14 Cal. Code Regs. 15301 (1).  
  
Authority: P.R.C. 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.
6. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**FURTHER APPROVALS REQUIRED:**

As to the existing wharf: State Lands Commission.

As to the removal of burned portion: State Lands Commission, San Francisco Bay and Conservation Development Commission, and Regional Water Quality Control Board.

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**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 FACILITIES, 2 CAL. CODE REGS. 2905 (A)(2) AND CLASS 1, PARTIAL REMOVAL, 14 CAL. CODE REGS. 15301 (1).
2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.
3. AUTHORIZE ACCEPTANCE OF BACK RENT IN THE AMOUNT OF \$8,000 AND WAIVE PENALTY AND INTEREST CHARGES FOR THE PERIOD 1986-1994.
4. TERMINATE EXISTING LEASE EFFECTIVE NOVEMBER 30, 1994.
5. AUTHORIZE ISSUANCE TO TOSCO REFINING COMPANY OF A 20 YEAR GENERAL LEASE - INDUSTRIAL USE BEGINNING DECEMBER 1, 1994; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$3,770, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A \$50,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$500,000 FOR AN EXISTING NON-OPERATIONAL MARINE TERMINAL WHARF ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

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**EXHIBIT "A"**

WP 2869

**LAND DESCRIPTION**

A parcel of tide and submerged lands in and adjacent to Carquinez Strait, Contra Costa County, California.

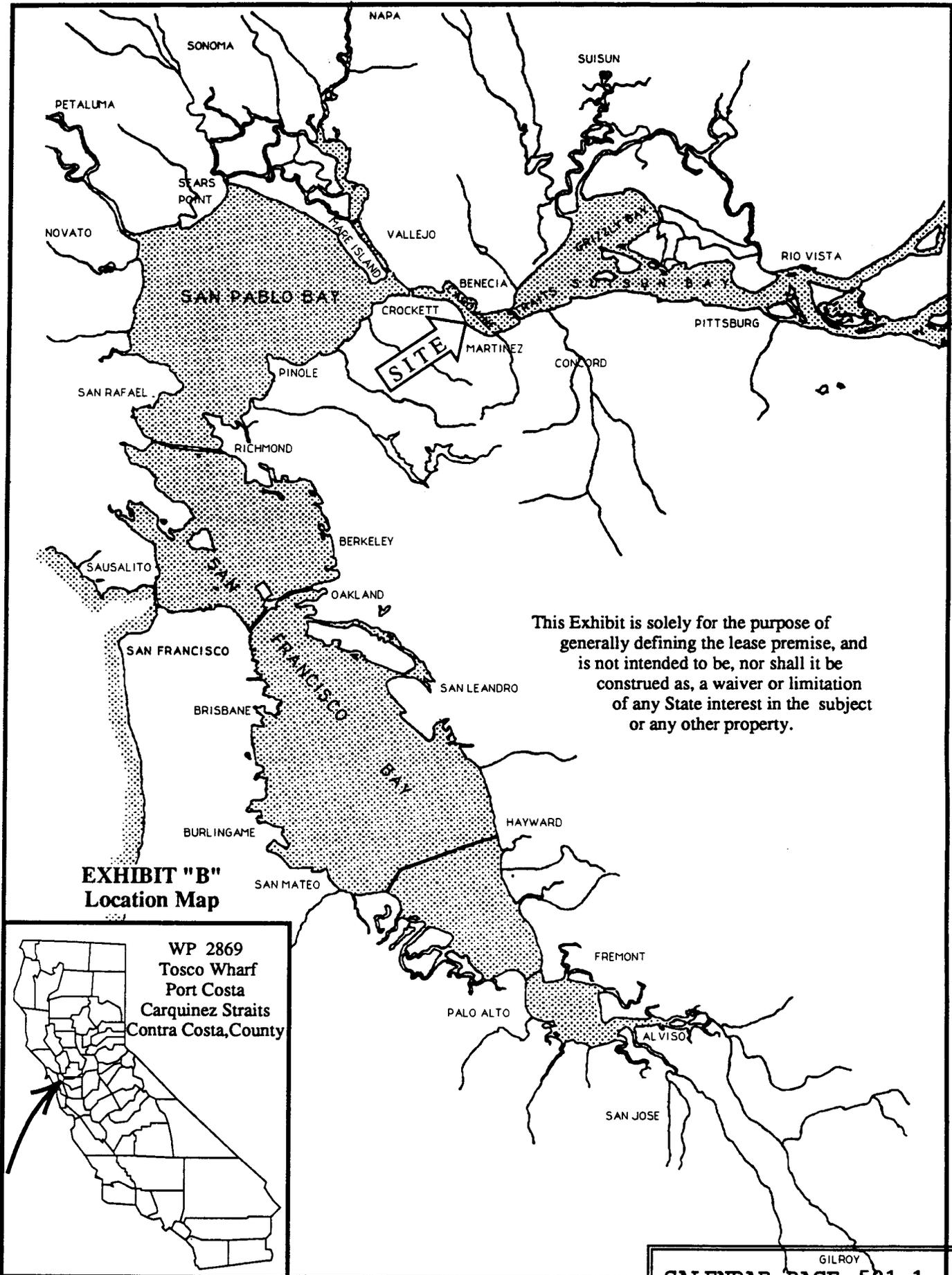
**BEGINNING** at the intersection of those two certain courses of the "Line of Low Tide" identified as South 28° 30' East, 2450 feet and South 15° 33' 30" East, 410.35 feet on the map entitled "Map of Re-survey of Tideland Survey No. 32, Contra Costa County, California". Made under the provisions of Chapter 490 Statutes of 1915 to correct errors in original survey. Dated January 1927, Sheet 4, which map was approved on April 18, 1927, by W. S. Kingsbury, Surveyor General, State of California: thence from said point of beginning North 58° 45' East 104.62; thence North 32° 45' West 215.00 feet; thence South 58° 45' West to the northerly right-of-way of the Southern Pacific Railroad; thence easterly along said northerly right-of-way to a point that bears South 58° 45' West from said point of beginning, thence North 58° 45' East to the point of beginning.

**EXCEPTING THEREFROM** any portion lying landward of the ordinary high water mark of Carquinez Strait. As it last existed in a state of nature.

**END OF DESCRIPTION**

**PREPARED SEPTEMBER, 1994 BY SFBCC**

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This Exhibit is solely for the purpose of generally defining the lease premise, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

**EXHIBIT "B"**  
**Location Map**

