

MINUTE ITEM

This Calendar Item No. C44 was approved as Minute Item No. 44 by the California State Lands Commission by a vote of 2 to 2 at its 5/9/96 meeting.

CALENDAR ITEM

C44

A 11
S 7

05/09/96
PRC 4908.1
Plummer
Meier

**ASSIGNMENT, AMENDMENT AND REVISION OF RENT
FOR LEASE NO. PRC 4908.1
INDUSTRIAL LEASE - MARINE TERMINAL FACILITY**

ASSIGNOR:

Shell Oil Company
One Shell Plaza
P.O. Box 2463
Houston, TX 77252-2463
ATTN: G.W. Hadley

ASSIGNEE:

Shell Martinez Refining Company
P.O. Box 711
Martinez, CA 94553

AREA, LAND TYPE AND LOCATION:

A 19.265 acre parcel of tide and submerged lands located in the City of Martinez, Contra Costa County.

AUTHORIZED IMPROVEMENTS:

A marine terminal wharf and associated pipelines used for the loading and unloading of crude oil and petroleum products.

BACKGROUND:

Shell Oil Company was issued a lease for a 15 year period, beginning August 1, 1974, with three successive renewal periods of 10 years each. At its meeting of March 19, 1980, the Commission authorized an amendment of the lease to include additional leased lands to accommodate Shell Oil Company's plans to expand its wharf facilities. As a part of this amendment an increase in the annual rental from \$60,000 to \$84,000 was approved, to become effective upon substantial completion of the wharf modifications.

CALENDAR ITEM NO. C44 (CONT'D)

CURRENT SITUATION:

Shell Oil Company has restructured its refineries into separate, independent subsidiary corporations. The refinery at Martinez was recently incorporated as the Shell Martinez Refining Company (SMRC). Pursuant to the terms of the Lease, the Commission must consent to any transfer or assignment of the lease agreement. Staff have reviewed documents relating to the proposed restructuring and transferring of the lease to SMRC.

In addition to the assignment of the lease, Shell Oil Company has requested that the lease be amended to revise the acreage and legal description to reflect those in the originally issued lease. The wharf expansion project that was contemplated in 1980 never materialized. Therefore, the additional lease area approved by the Commission at its March, 1980, meeting was never utilized and is not now needed.

Staff and Shell Oil Company representatives have negotiated a revision of rental that will be retroactive to August 1, 1989. The recommended adjustment of rent is based upon adjustment of the prior rent by the application of the Consumers Price Index (CPI). Application of the CPI to adjust rents at this time is an interim measure necessitated by budget constraints and resultant losses in staff, and does not obligate the Commission to use of the CPI to adjust rentals other than as specifically set forth herein.

STATUTORY AND OTHER REFERENCES:

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

AB 884:

N/A

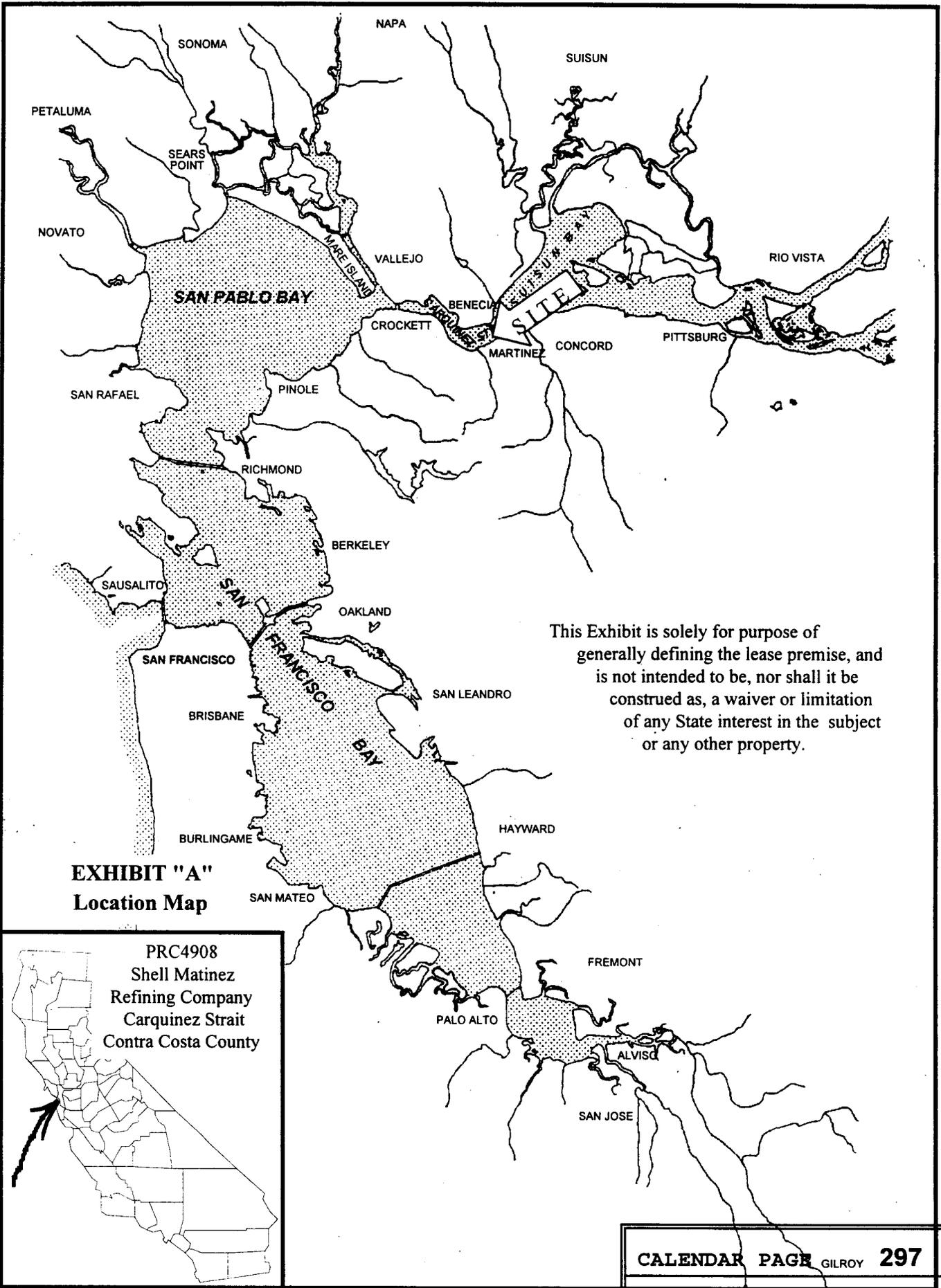
EXHIBITS:

- A. Location Map
- B. Land Description

CALENDAR ITEM NO. C44 (CONT'D)

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 PUBLIC RESOURCES CODE SECTIONS 21065 AND 14 CAL. CODE REGS. 15378.
2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.
3. AUTHORIZE THE TRANSFER AND ASSIGNMENT OF GENERAL LEASE- INDUSTRIAL USE, LEASE NO. PRC 4908.1 FROM SHELL OIL COMPANY TO SHELL MARTINEZ REFINING COMPANY, EFFECTIVE APRIL 1, 1996. ALL OTHER TERMS AND CONDITIONS OF THE LEASE, EXCEPT AS AMENDED HEREIN BELOW, SHALL REMAIN IN FULL FORCE AND EFFECT.
4. AUTHORIZE AN AMENDMENT OF THE LEASE TO CHANGE THE LEASE AREA DESCRIPTION, AS DESCRIBED ON EXHIBIT "B" ATTACHED AND BY REFERENCE MADE A PART HEREOF, TO REFLECT THE AREA CURRENTLY BEING USED AND OCCUPIED BY SHELL OIL COMPANY.
5. AUTHORIZE THE CHANGE OF THE ANNUAL RENTAL FOR INDUSTRIAL LEASE NO. PRC 4908.1 FROM \$60,000 TO \$73,062 FOR THE LEASE YEARS 1989-90, 1990-91, 1991-92, 1992-93 AND 1993-94; AND A CHANGE IN RENTAL FROM \$73,062 TO \$85,212 FOR THE LEASE YEARS 1994-95, 1995-96, 1996-97, 1997-98 AND 1998-99.



This Exhibit is solely for 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 "A"
Location Map

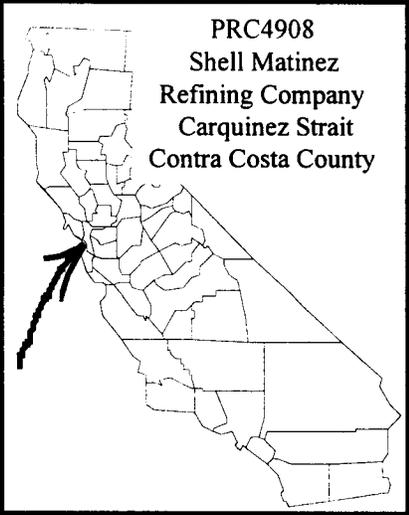


EXHIBIT B
LAND DESCRIPTION

A parcel of tide and submerged land lying in the bed of and adjacent to the south bank of Carquinez Strait, within the city limits of the City of Martinez, Contra Costa County, State of California, and being more particularly described as follows:

BEGINNING at a point on the boundary between State submerged land and Shell Oil Company tidelands, as said boundary is shown upon that certain map entitled "Boundary of State Submerged Lands, Vicinity of Martinez" as recorded under Number 48615 on June 14, 1962, in Volume 20 of Licensed Surveyor's Maps, page 14, Official Records of Contra Costa County; said point bears N 04° 53' 18" E, 1397.98 feet from a monument being a 3" diameter brass cap in concrete in iron pipe having coordinates of X = 1,530,983.14 and Y = 558,754.24; said monument being designated as J.C. Number 1, and shown on the aforementioned map; thence from said point of beginning proceeding waterward N 07° 33' 31" W, 844.02 feet to a point on the U.S.E.D. bulkhead line as shown on a map of "Harbor Lines for Carquinez Strait", U.S. Engineers Office, approved April 22, 1941; thence along said bulkhead line S 58° 16' 45" W, 274.00 feet; thence leaving said bulkhead line along the following 9 courses:

1. N 07° 33' 31" W, 930.00 feet;
2. S 58° 16' 45" W, 1210.00 feet;
3. N 31° 43' 15" W, 250.00 feet;
4. N 58° 16' 45" E, 2090.00 feet;
5. S 31° 43' 15" E, 250.00 feet;
6. S 58° 16' 45" W, 529.28 feet;
7. S 07° 33' 31" E, 930.02 feet;
8. S 58° 16' 45" W, 10.96 feet;
9. S 07° 33' 31" E, 839.24 feet to the above-

mentioned boundary line between the State and Shell Oil Company; thence along said boundary line S 54° 36' 29" W, 67.85 feet to the point of beginning.

The bearings and distances used in the above description are based upon the California Coordinate System, Zone 3.

END OF DESCRIPTION

CALENDAR PAGE

298

MINUTE PAGE

001024