MINUTE ITEM
This Calendar Item No. C55 was approved as Minute Item No. 55 by the California State Lands Commission by a vote of 3 to 0 at its 11/27/00 meeting.

CALENDAR ITEM
C55

A 34

S 17

PRC 8253

11/27/00
W 40716
E. Kruger
G. Pelka

CONSIDER AN APPLICATION FOR A NEGOTIATED STATE MINERAL EXTRACTION LEASE ON 160 ACRES OF SCHOOL LAND, SAN BERNARDINO COUNTY

APPLICANT:

Webber-Plyley, Inc. (dba: Sigma Stone Company)
Attn: Mr. George Webber
101 E. Redlands Blvd., Suite 240
Redlands, CA 92373

AREA, LAND TYPE, AND LOCATION:

Approximately 160 acres of State 100 percent reserved mineral interest patented school land (APN: 0419-051-20-0000) located in portions of Section 36, T8N, R3W, SBM, San Bernardino County, and situated about ten miles south of Barstow.

BACKGROUND:

In September 1994, Commission staff reviewed a proposed Negative Declaration (ND) circulated by San Bernardino County Planning Department (the County) regarding a Mining Conditional Use Permit (CUP) and Reclamation Plan (RP) application for Sigma Stone Company (Sigma Stone) of Redlands, California. Commission staff responded to the County that the proposed project area consisted of 160 acres of State 100 percent (100%) reserved mineral interest (RMI) patented school land. According to the County Assessor's records, Webber-Plyley, Inc. is the surface owner of the subject parcel.

In February 1995, George Webber of Sigma Stone met with Commission staff. Sigma Stone did not deny the State's mineral interest, but contended that the mineral deposits listed in Public Resources Code section 6407 as part of the

State's reserved mineral interest, were not involved in Sigma Stone's mining project, specifically Sigma Stone's volcanic rock material. No agreement was reached between the parties, and the matter was forwarded to the Sacramento office for disposition as a mineral trespass.

In October 1999, Commission staff responded to another proposed ND circulated by the County to revise Sigma Stone's mining CUP/RP. Shortly thereafter, George Webber called Commission staff about applying for a mineral lease with the State. At that time, Mr. Webber advised Commission staff that Sigma Stone's mining operations were underway. The State Office of Mine Reclamation (OMR) confirmed that Sigma Stone began production in February 1999.

In November 1999, Sigma Stone submitted a State Mineral Extraction Lease application for the subject parcel. The proposed leased land is situated about mid-way between Victorville and Barstow, two miles east of the Hodges Road exit of Interstate 15. Sigma Stone reports that approximately 234,995 short tons of rock, sand and gravel material have been removed from the subject parcel prior to September 1, 2000. Lessee shall pay to the State $0.27 per short ton in settlement for material removed from the Leased Land prior to the effective date of this lease. Payments for all such materials removed prior to September 1, 2000, shall be made in twelve (12) equal monthly installments due and payable on or before the 1st day of each month, beginning January 1, 2001. Payment shall include interest at ten percent (10%) per annum on the unpaid balance. The total royalty payment amount due the State for all material removed from the Leased Land prior to September 1, 2000, is $63,448.65. Production for the four-month period commencing September 1, 2000 through December 31, 2000, shall be reported in accordance with Subparagraph 3(f) by January 25, 2001, and shall be accompanied by payment of appropriate royalty. Commission staff recommends the issuance of a negotiated mineral extraction lease to Applicant on the terms outlined in this Calendar Item.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code section, Division 6, Public Resources Code section 21000, et seq.

B. Title 14, Chapter 3, California Code of Regulations, section 15096, State CEQA Guidelines; Title 2, California Code of Regulations, section 2200.

OTHER PERTINENT INFORMATION:

1. As lead agency, San Bernardino County Planning Department prepared and circulated ND SCH No. 94093069 for this project and approved Mining Conditional Use Permit and Reclamation Plan (CUP/RP) number 94M-06 on November 17, 1994. The mining plan included 48.5 acres of a 160-acre site. A subsequent ND, SCH No. 96081053 was prepared and circulated to revise the CUP/RP to add an explosives storage facility, and was approved by the County on September 10, 1996. In January 1998, the County prepared Addendum No. 1 to ND SCH No. 94093069 and subsequent ND SCH No. 96081053 to add a temporary asphalt batch plant as an accessory use. This revision to the CUP/RP was approved by the County on February 6, 1998. A subsequent ND, SCH No. 99091131, was prepared and circulated for revision of Sigma Stone's mining plan to include an additional 12 acres, for a total project area of 60.5 acres and to permit a bunkered explosives storage facility at an increased distance from on-site activities. The County approved this revision on December 17, 1999. Commission staff have reviewed and considered the information in these documents and the Mitigation Monitoring Program (MMP).

2. The primary lease term is for ten years effective December 1, 2000, with a preferential right to renew the lease for two (2) successive ten-year periods; upon such reasonable terms and conditions as may be prescribed by the State, including but not limited to, modification of royalty or any other provision in a manner which will adequately protect the environment and the interests of the State.

3. Lessee shall furnish and maintain a continuous bond in the amount of $15,000 that guarantees faithful performance by Lessee of the terms and conditions of the Lease.

4. The royalty for all rock, sand and gravel sold freight on board (f.o.b.) the mine shall be seven percent (7%) of the gross proceeds of sale. For rock, sand and gravel produced, used or sold from the Leased Land, other than sold freight on board (f.o.b.) the mine, and for any other minerals produced under the lease, the royalty shall be ten percent (10%) of the gross value of such minerals, less any charges approved by the State that were made or incurred with respect to transporting or processing the State's royalty share of production. In no case shall the royalty for rock, sand and gravel be less than $0.30 per short ton, escalating at a rate of $0.01 per short ton on the

anniversary of each lease year during the primary term of the lease. A non-refundable annual minimum royalty payable on the date of the lease anniversary, whether or not any material is produced, extracted, shipped, used or sold from the leased lands, shall be computed on a minimum annual required production of 35,000 tons per year multiplied by the royalty rate and escalated to 50,000 tons after the first five years of the lease. Such minimum royalty shall be credited to royalties due on material produced, extracted, shipped, used or sold from the leased lands during the course of the lease year.

5. The Applicant has submitted the required filing and processing fees and has been negotiating with Commission staff in good faith.

APPROVALS OBTAINED:

Pursuant to Public Resources Code section 6890, the form of lease was approved by the Office of the Attorney General.

EXHIBIT:

A. Location Map

PERMIT STREAMLINING ACT DEADLINE:

January 10, 2001

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT MITIGATED NEGATIVE DECLARATIONS AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY SAN BERNARDINO COUNTY AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THEM.

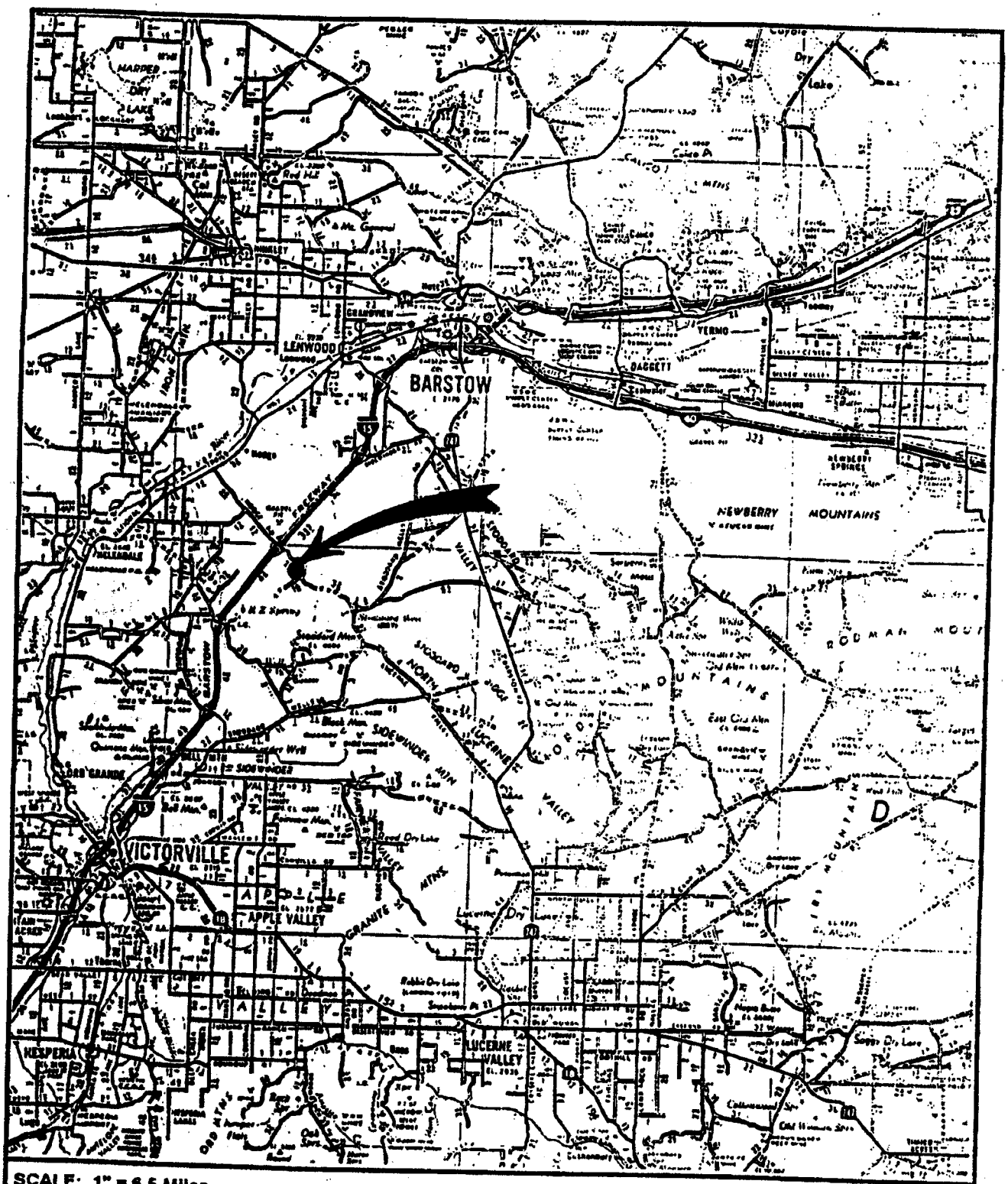
NEGOTIATED LEASE FINDING:

FIND THAT THE ISSUANCE OF A NEGOTIATED MINERAL LEASE TO THE APPLICANT IS IN THE BEST INTERESTS OF THE STATE.

AUTHORIZATION:

APPROVE ISSUANCE OF A STATE MINERAL EXTRACTION LEASE UPON TERMS AND CONDITIONS AS OUTLINED IN THIS CALENDAR ITEM TO WEBBER-PHYLEY, INC. (DBA: SIGMA STONE COMPANY) FOR ROCK, SAND AND GRAVEL MATERIAL FROM STATE 100 PERCENT RESERVED MINERAL INTEREST STATE SCHOOL LAND; SUCH LEASE TO BE FOR A PRIMARY TERM OF TEN YEARS WITH A PREFERENTIAL RIGHT, UPON SUCH REASONABLE TERMS AND CONDITIONS AT THE STATE MAY PRESCRIBE, TO RENEW THE LEASE FOR TWO SUCCESSIVE TEN-YEAR PERIODS.

AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENT NECESSARY OR CONVENIENT TO IMPLEMENT THE COMMISSION'S ACTION.



SCALE: 1" = 6.5 Miles

Location Map

W40716

BLACK ANGEL MINE

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● PROJECT SITE

Exhibit A

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