

MINUTE ITEM
This Calendar Item No. C68
was approved as Minute Item
No. 68 by the State Lands
Commission by a vote of 3
to 0 at its 2-5-01
meeting

CALENDAR ITEM
C68

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02/05/01
W 40829
E. Kruger
G. Pelka

**CONSIDER AN APPLICATION FOR A
NEGOTIATED MINERAL EXTRACTION LEASE
ON STATE 100 PERCENT RESERVED
MINERAL INTEREST PATENTED SCHOOL LAND,
SAN BERNARDINO COUNTY**

APPLICANT:

Washington Group International, Inc.
Attn.: Mr. Danny Hester, Paving Manager
27400 East 5th Street, P. O. Box 600
Highland, CA 92346

AREA, LAND TYPE, AND LOCATION:

Approximately 80 acres of State 100 percent reserved mineral interest (RMI) patented school land (APN: 552-141-17) located in the W2 of the SW4 of Section 36, T8N, R7E, SBM, San Bernardino County (the "Subject Property"), and situated near Ludlow, approximately 45 miles east of Barstow, California, immediately north of Interstate 40.

BACKGROUND:

In June, 1993, California State Lands Commission (Commission) staff reviewed a proposed Negative Declaration (SCH No. 93042051) prepared by San Bernardino County (County) Planning Department for a Mining Conditional Use Permit Reclamation Plan (CUP/RP) application submitted by FNF Construction, Inc. The proposed action was for extraction of rock, sand and gravel near Ludlow, California. A status determination performed by Commission staff revealed that the project was situated on patented State school lands with a 100 percent (100%) mineral reservation in favor of the State. Title to the surface estate was owned by Kasler Corporation (Kasler). Commission staff contacted Kasler regarding a lease agreement with the State, and Kasler submitted an application for a negotiated mineral lease. Prior to Commission consideration of the lease application, Kasler elected not to pursue the lease with the State and

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the file was closed. On or about December 29, 1996, Kasler was merged into Morrison Knudsen Corporation, an Ohio corporation, which thereafter changed its name to Washington Group International, Inc, also an Ohio corporation ("WGI"). As a result, WGI is the present owner of the surface of the Subject Property.

In December of 2000, WGI indicated to Commission staff that it wanted to pursue a negotiated mineral extraction lease with the State as a potential source of materials for highway maintenance work along Interstate 40. WGI holds the County CUP/RP, which will expire on June 17, 2003, covering the Subject Property. The State and WGI have agreed to lease terms pending Commission approval. Commission staff has reviewed the application in accordance with the criteria of Public Resources Code section 6897 pertaining to negotiated mineral extraction leases. Commission staff recommends that the Commission find that the lease area contains a commercially valuable mineral deposit, i.e., the extraction of rock, sand and gravel and that entering into a negotiated lease with WGI is in the best interest of the State. Commission staff has reviewed the economics of the extraction of rock, sand and gravel as a source of highway maintenance material. The applicant has demonstrated that extraction of material from this site has a substantial economic advantage to purchasing and transporting from the only other source, which is outside of Barstow. Commission staff has reviewed information presented by the applicant and other available geologic and economic data and concluded that the Subject Property contains a commercially valuable mineral deposit. Such leasing will economically benefit the State Teachers Retirement System as well as provide needed aggregate for State highway maintenance. Commission staff believes it is appropriate to negotiate this lease with the applicant as it owns the surface of the parcel and holds the permit to extract rock, sand and gravel material in accordance with the CUP/RP issued by the County of San Bernardino.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Division 6
- B. Public Resources Code: section 21000, et seq.
- C. California Code of Regulations: Title 14, Chapter 3, section 15096, California Code of Regulations, Title 2, section 2200.

OTHER PERTINENT INFORMATION:

- 1. As lead agency under the Surface Mining and Reclamation Act and the California Environmental Quality Act (CEQA), San Bernardino County

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Planning Department prepared and adopted a Mitigated Negative Declaration (SCH. No. 93042051) for this project and approved Mining Conditional Use Permit (CUP) No. SMA/92-0071/DN665-269N and Reclamation Plan (RP) No. 93M-06. The mining plan provides for the disturbance of 13 acres within an 80-acre site. A Notice of Determination was filed by the County of San Bernardino finding that the project will not have a significant effect on the environment. The California State Lands Commission staff have reviewed such document and finds that it remains valid for the proposed Commission action. A Mitigation Monitoring Program was adopted by the County of San Bernardino.

2. The primary term of the lease is two years and four months, which is consistent with the term of the CUP/RP for rock, sand and gravel extraction on Subject Property. The lease contains a preferential right to renew for one additional ten-year term 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 other interests of the State.
3. Lessee shall furnish and maintain a continuous bond or other financial security in the amount of \$15,000 that guarantees faithful performance by Lessee of the terms and conditions of the Lease.
4. Royalty shall be ten percent of the gross value of all rock, sand and gravel produced, extracted, shipped, used or sold from the leased land, less any charges approved by the Commission that were made or incurred with respect to transporting or processing the State's royalty share of production, but in no event shall the royalty be less than \$0.45 per ton of rock, sand and gravel. A non-refundable 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 required production of 30,000 short tons multiplied by the royalty rate. 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 staff reimbursement fees.

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APPROVALS OBTAINED:

Pursuant to Public Resources Code section 6890, the lease form has been approved by the Office of the Attorney General as to its compliance with applicable provisions of the law.

EXHIBIT:

- A. Location Map

PERMIT STREAMLINING ACT DEADLINE:

July 29, 2001.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDINGS:

1. FIND THAT A MITIGATED NEGATIVE DECLARATION (SCH. NO. 93042051) AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF SAN BERNARDINO AND THAT THE CALIFORNIA STATE LANDS COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. ADOPT THE MITIGATION MONITORING PROGRAM AS AVAILABLE ON FILE IN THE LONG BEACH OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

OTHER FINDINGS:

1. FIND THAT THE SUBJECT PROPERTY CONTAINS COMMERCIALY VALUABLE MINERAL DEPOSITS.
2. FIND THAT THE ISSUANCE OF A NEGOTIATED MINERAL LEASE TO THE APPLICANT IS IN THE BEST INTEREST OF THE STATE.

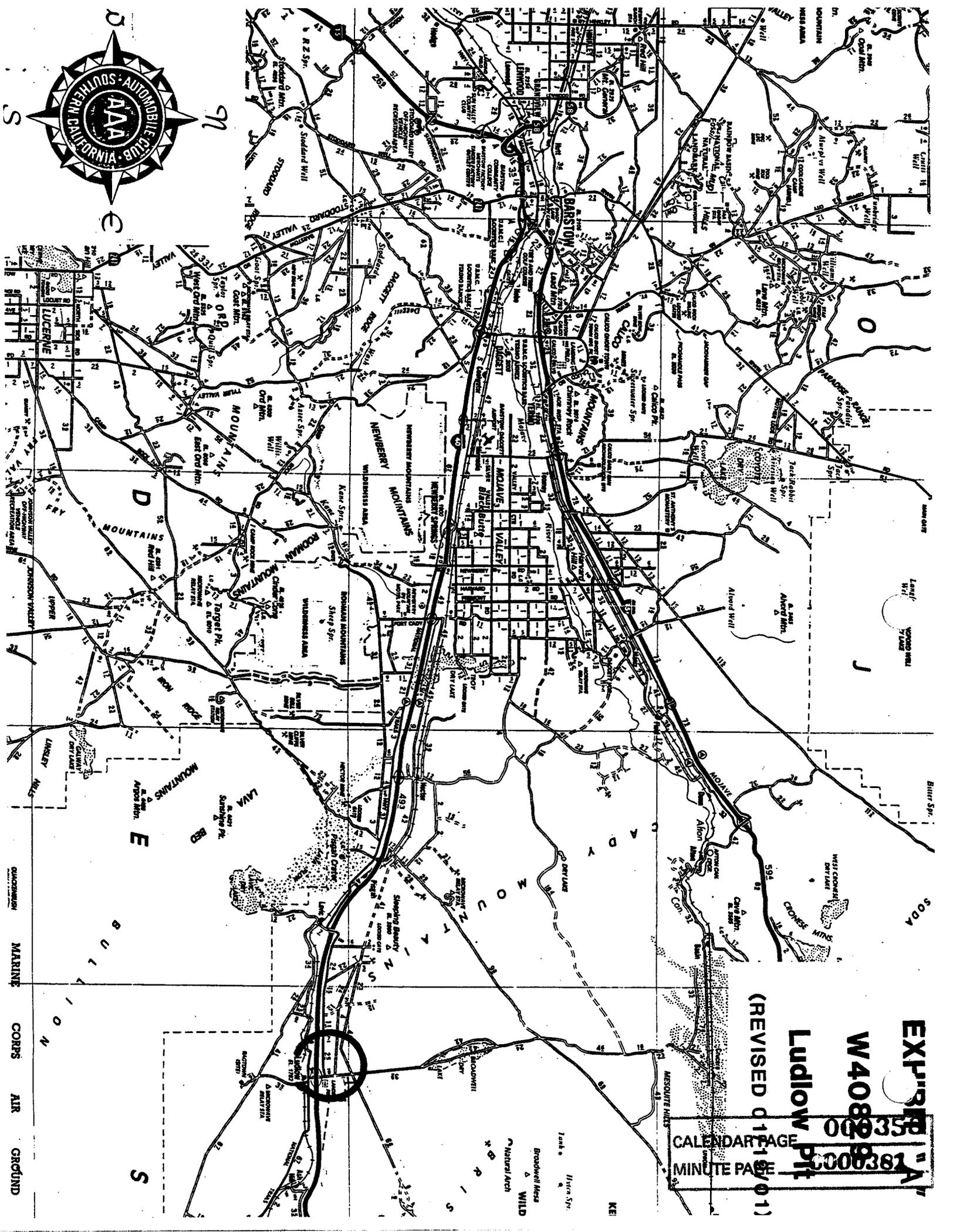
AUTHORIZATION:

AUTHORIZE ISSUANCE OF A NEGOTIATED MINERAL EXTRACTON LEASE OF THE SUBJECT PARCEL UPON TERMS AND CONDITIONS AS OUTLINED IN THIS CALENDAR ITEM TO WASHINGTON GROUP INTERNATIONAL, INC., FOR ROCK, SAND AND GRAVEL MATERIAL

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FROM STATE 100 PERCENT RESERVED MINERAL INTEREST SCHOOL LAND; SUCH LEASE TO BE FOR A PRIMARY TERM OF TWO YEARS AND FOUR MONTHS WITH A PREFERENTIAL RIGHT, UPON SUCH REASONABLE TERMS AND CONDITIONS AS THE STATE MAY PRESCRIBE, TO RENEW THE LEASE FOR ONE TEN-YEAR PERIOD; IN ACCORDANCE WITH THE STANDARD FORM OF LEASE, ROYALTY SHALL BE TEN PERCENT OF THE GROSS VALUE OF ALL ROCK, SAND AND GRAVEL PRODUCED, EXTRACTED, SHIPPED, USED OR SOLD FROM THE LEASED LAND, LESS ANY CHARGES APPROVED BY THE COMMISSION THAT WERE MADE OR INCURRED WITH RESPECT TO TRANSPORTING OR PROCESSING THE STATE'S ROYALTY SHARE OF PRODUCTION, BUT IN NO EVENT SHALL THE ROYALTY BE LESS THAN \$0.45 PER SHORT TON OF ROCK, SAND AND GRAVEL.

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



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