

This Calendar Item No. C38 was approved as Minute Item No. 38 by the California State Lands Commission by a vote of 3 to 6 at its 12-09-03 meeting.

**CALENDAR ITEM
C38**

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12/09/03

Bid Log 2003-19

S 38

WP871; WP791.1; W30131; R14200

D. Brown, A. Cueva, J. Smith, S. Jenkins

**REQUEST AUTHORITY FOR EXECUTIVE OFFICER
TO SOLICIT PROPOSALS FOR CONSULTANT SERVICES, NEGOTIATE FAIR AND
REASONABLE PRICE, AWARD AND EXECUTE AGREEMENTS FOR
PREPARATION OF ENVIRONMENTAL DOCUMENTATION FOR THE EXISTING
INTAKE AND DISCHARGE JETTIES, MARINE TERMINAL AND APPURTENANT
FACILITIES ASSOCIATED WITH THE ENCINA GENERATING STATION IN SAN
DIEGO COUNTY AT CARLSBAD, CALIFORNIA**

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

BACKGROUND:

The construction of the Encina Generating Station, in 1954, included the dredging of Agua Hedionda Lagoon to assure a reliable and economical source of cooling water. The dredging enhanced tidal flow in the Lagoon. The Generating Station requires more than 700 million gallons per day of seawater (500,000 gallons per minute) at capacity, for cooling purposes. Seawater enters the Lagoon through the inlet channel created and stabilized by inlet jetties (Lease WP 871.1). Seawater used by the Station for cooling is discharged through a set of jetties, known as the outlet channel, located at the southern end of the Lagoon (Lease WP 1409.1). Both leases are presently in holdover. The Applicant is requesting a new 30 year lease to cover the inlet/outlet jetties.

The operation of the Generating Station exacerbates the natural sedimentation problem in the Agua Hedionda Lagoon because: 1) the pumping of cooling water from the Lagoon increases the force of the flood tides in moving sediment into the Lagoon; and 2) the discharge of the cooling water directly to the ocean, via the outlet channel, decreases the force of the ebb tide in clearing sediment from the Lagoon.

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The Applicant, Cabrillo Power I, LLC, and the previous owner, San Diego Gas & Electric have conducted maintenance dredging in the Lagoon more than 25 times since 1954, typically at intervals of about two years.

The marine terminal lease (WP 791.1) consists of two parcels: 1) a strip of tide and submerged land 60 feet in width, extending into the Pacific Ocean, located approximately one mile south of the City of Carlsbad which contains the petroleum pipeline that brings fuel oil into the Encina Generating Station; and 2) submerged land within the Pacific Ocean, immediately offshore of the Encina Generating Station, approximately one mile south of the City of Carlsbad. This irregularly shaped area, referred to as a "berthing area" contains the mooring buoys and loading facilities for the tankers unloading fuel oil. Onshore the fuel transfer system (which is not part of the CSLC lease) consists of pumps, lines, heaters and valves interconnecting the marine terminal with seven storage tanks, and a displacement tank. The lease is presently in holdover.

PROPOSED ACTIVITY:

The Applicant is proposing two separate actions: 1) the re-construction of a 200-foot long seaward extension of an existing 378-foot long jetty located on the north side of the northern inlet to the Lagoon; and 2) the issuance of two new leases (one lease to cover the inlet/outlet jetties included in Leases WP 871.1 and WP 1409.1; and one lease for the marine terminal and appurtenant facilities included in Lease WP 791.1.)

The existing jetties at the northern inlet were approximately 600 feet in length, or longer, when they were originally constructed in 1954. Both jetties were severely reduced in length by a series of strong storms over the next ten years.

Use of the marine terminal by the Applicant is on as needed basis. This is because the Encina Generating Station typically uses natural gas, and fuel oil is used only as backup for the natural gas system. The Encina Generating Station must burn fuel oil when directed by the California Independent System Operator (ISO). The marine terminal is capable of receiving deliveries between 45,000 barrels and 550,000 barrels. The terminal accommodates tanker ships up to 100,000 dead weight ton (DWT), tank barges up to 25,000 DWT, maximum vessel draft of 47 feet, and vessel length of up to 850 ft.

Consideration of such an action will require environmental documentation, including monitoring, in accordance with the California Environmental Quality Act (CEQA). The Executive Officer requests delegation of authority to engage a consultant for this purpose. Consultant selection will be conducted consistent with procedures as specified in CSLC Regulations and in the State Contracting Manual on the basis of demonstrated competence and qualifications for the types

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of services to be performed and at a fair and reasonable price. All costs will be recovered from the project Applicant.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

2. Approval of this item by the Commission does not constitute approval of the proposed lease; it only authorizes consultant contracts for environmental review.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code Section 6106 (Delegation to execute written instruments)
- B. State Contracts Manual Section 11.00 (A & E method)
- C. Public Contract Code Section 6106
- D. Government Code Section 4526
- E. California Administrative Code Title 2 Article 13 Section 2980.0 - 2990.0

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THESE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL CODE REGS. 15060(c)(3) BECAUSE THESE ACTIVITIES ARE NOT PROJECTS AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL CODE REGS. 15378.
2. FIND THAT THE SELECTION OF CONSULTANT UNDER THIS PROCESS DOES NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOVERNMENT CODE SECTION 11342, SUB. (H), BECAUSE THEY WILL BE ACCORDED EQUAL OPPORTUNITY TO SUBMIT STATEMENTS OF QUALIFICATIONS AND PERFORMANCE DATA.
3. FIND THAT THE SELECTION OF CONSULTANTS UNDER THIS PROCESS FOR PROFESSIONAL SERVICES OF ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING OR CONSTRUCTION PROJECT MANAGEMENT SERVICES WILL BE CONSISTENT WITH PROCEDURES AND POLICIES ADOPTED BY THE COMMISSION AS SPECIFIED IN

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GOVERNMENT CODE SECTION 4526 AND TITLE 2, CALIFORNIA
CODE OF REGULATIONS 2980 –2980.9.

4. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO SOLICIT PROPOSALS, NEGOTIATE FAIR AND REASONABLE PRICE, AWARD AND EXECUTE CONTRACT IN ACCORDANCE WITH STATE POLICIES AND PROCEDURES.
5. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH PROJECT APPLICANT TO RECOVER COSTS INCURRED IN THE CONSIDERATION OF THIS PROJECT.