

MINUTE ITEM
This Calendar Item No. 455 was approved as
Minute Item No. 55 by the California State Lands
Commission by a vote of 3 to 1 at its
8/24/06 meeting.

**CALENDAR ITEM
C55**

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08/24/06
PRC 8253.2
S. Mulqueen
G. Pelka

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**CONSIDER APPROVAL FOR THE AMENDMENT OF
STATE MINERAL EXTRACTION LEASE NO. PRC 8253.2,
STATE FEE-OWNED SCHOOL LAND,
SAN BERNARDINO COUNTY**

LESSEE:

Webber-Plyley, Inc.
(dba: Sigma Stone Company)
Attn.: Mr. George A. 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 school land (APN: 0419-051-20-0000) located in portions of section 36, T8N, R3W, SBBM, San Bernardino County, and situated in a remote desert area about 10 miles southwest of the city of Barstow.

BACKGROUND:

Webber Plyley, Inc., dba: Sigma Stone Company (Sigma Stone) has leased the Black Angel Aggregate Quarry from the California State Lands Commission (Commission) since January 2001. Over \$250,000 in royalties have been received by the Commission even though the quarry was shut-in from April 2002 through June 2005, when Sigma Stone lost its contract mining company. The mine reopened in July 2005. In the first quarter of 2006, the market improved, allowing Sigma Stone to nearly double production over the prior quarters. However, a cash flow problem developed when accounts receivable payments were delayed as much as 120 days. This circumstance resulted in the late submission by 16 days of the quarterly royalty payment due the State on April 25, 2006. Paragraph 3 of the lease requires submission of royalty within 25 days following the prior three-month period of production. In accordance with lease provisions, Accounting invoiced Sigma Stone for \$3,125.90 in penalty and

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\$493.29 in interest.

On June 30, 2006, Sigma Stone submitted the interest payment of \$493.29, but petitioned for relief of the penalty. According to Sigma Stone, the lease provision requiring payment no later than 25 days following the three-month period of production or extraction creates cash flow problems for Sigma Stone because its accounts receivable can be delayed up to 120 days. Based on staff's negotiations, modifying the royalty provision of Paragraph 3 to require payment no later than the 25th day of the second month following completion of the three month period of production or extraction will alleviate the problem. An amendment was prepared by Commission staff and executed by Sigma Stone to effect this change.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code, section 6224.
- B. Public Resources Code section 21000, et seq.
- C. Title 14, California Code of Regulations, Chapter 3, section 15096.
- D. Title 14, California Code of Regulations, Title 2, section 1911.

OTHER PERTINENT INFORMATION

- 1. The lessee submitted a letter dated June 28, 2006, requesting waiver of the penalty for the late payment.
- 2. The lessee has submitted a check for interest in the amount of \$493.29 due to the late payment calculated at one and one-half percent (1-1/2%) per month.
- 3. The proposed amendment does not modify the State's royalty, only the timing of the receipt of stipulated royalty payment by the Commission.
- 4. 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 CEQA because it is not a "project" as determined 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.

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EXHIBIT:

- A. A copy of letter dated June 28, 2006, from George A. Webber, Webber Plyley, Inc., dba: Sigma Stone Company.

PERMIT STREAMLINING ACT DEADLINE:

N/A (not a "development project" subject to the Act).

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDINGS:

1. FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060 (C) (3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

AUTHORIZATION:

1. AUTHORIZE THE AMENDMENT OF STATE MINERAL EXTRACTION LEASE NO. PRC 8253.2 ISSUED TO WEBBER PLYLEY, INC., DBA: SIGMA STONE COMPANY, TO MODIFY THE DUE DATE FOR ROYALTY PAYMENTS TO NO LATER THAN THE 25TH DAY OF THE SECOND MONTH FOLLOWING THE PRIOR THREE-MONTH PERIOD OF PRODUCTION OR EXTRACTION.
2. WAIVE THE PENALTY OF \$3,125.90 ASSESSED TO WEBBER PLYLEY, INC, DBA: SIGMA STONE FOR LATE PAYMENT.
3. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENT NECESSARY TO IMPLEMENT THE COMMISSION'S ACTION.

EXHIBIT A

Webber-Plyley, Inc.

101 E. Redlands Blvd. • Suite 240 • Redlands, California 92373 • (909) 793-3416

June 28, 2006

Mr. Gregory J. Pelka
Senior Mineral Resources Engineer
California State Lands Commission
200 Oceangate, 12th Floor
Long Beach, CA 90802-4331

Re: **Black Angel Mine**

Subject: **State Lands Commission Invoice 8084**

Dear Mr. Pelka:

We received this invoice on 6/27/06 because we were 16 days late in submitting our 4/25/06 Royalty Report and Payments for the 1st quarter in 2006. I will pay quickly the 493.29 interest due, but can you give us a break on the penalty of \$3,125.90?

We started-up the Black Angel Mine last July 2005 and have always had late payments from the construction companies buying our product. Some companies delayed our revenue due by as much as 120 days. This situation continued into the 1st quarter of 2006 and currently, we still experience late payments. All I'm asking is one break to waive the \$3,125.90 penalty for this 16-day late infraction. I can offer that our 7/25/06 Royalty Payment will be submitted more than 16 days early. Would this offset our tardiness of the 4/25/06 payments?

We would appreciate anything you can do to hopefully waive the penalty. It is an expense we would like to spend on successfully maintaining the continued production at the Black Angel Mine; probably buy another set of crusher liners since the rock is so hard.

If you have any questions or comments, please call me at (909) 793-3416.

Sincerely,



George A. Webber
President

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