

**CALENDAR ITEM
C17**

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12/14/06
PRC 7643 WP 7643.1
D. Jones

GENERAL LEASE - INDUSTRIAL USE

APPLICANT:

USS-POSCO Industries, a California Partnership
900 Loveridge Road
Pittsburg, California 94565

AREA, LAND TYPE, AND LOCATION:

14 acres, more or less, of filled and unfilled lands in New York Slough, in the city of Pittsburg, Contra Costa County.

AUTHORIZED USE:

Operation and maintenance of existing facilities consisting of an industrial wharf, a levee, settling basin and other facilities inherent to the manufacturing of steel (i.e., offloading, storage and processing of hot-rolled steel coils, producing zinc-galvanized, tin-plated, cold-rolled and chrome-coated steel), bank protection, dolphins, the fueling of ships, and other ancillary facilities.

LEASE TERM:

25 years, beginning November 18, 2006.

CONSIDERATION:

\$232,137 per year, with the State adjusting the annual base rent each year by application of the Consumer Price Index (CPI). This CPI adjustment will continue until the fifth anniversary of the lease, when a new base rent may be established.

SPECIFIC LEASE PROVISIONS:

Insurance:

\$10,000,000 combined single limit.

Bond:

\$1,000,000 Performance Deposit.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

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2. Since 1930, three chapter leases (Lease 14.1, Chapter 69, Statutes of 1929; Lease 14.1 Supplemental, Chapter 69, Statutes of 1929; and Lease 26.1, Chapter 69, Statutes of 1929), as well as Lease PRC 2500.1 were authorized for parcels involving the sovereign lands now occupied by USS-POSCO Industries. A portion of Lease PRC 2500.1 was split and that portion, which is now occupied by USS-POSCO, was authorized under Lease No. PRC 7643.1. On August 28, 1986, the Commission approved an assignment from USS Steel Corporation to USS-POSCO Industries of leases PRC 7643.1; Lease No. 14.1 (Chapter 69/1929); Lease No. 14.1 Supplemental (Chapter 69/1929); and Lease No. 26.1 Chapter 69/1929). All of these leases have since expired and USS-POSCO is applying for a new lease of the areas encompassed within all of the aforementioned leases.

USS-POSCO's facility is a steel finishing mill and is used for the offloading, storing and processing of raw steel materials. The Lease will authorize the unloading, storing and processing of hot-rolled steel coils for the production of spiral welded steel pipe and zinc-galvanized, tin-plated, cold-rolled and chrome-coated steel; and the fueling of ships.

3. USS-POSCO has prepared a Spill Prevention Control and Countermeasure Plan to prevent the discharge of oil into the water and has adopted a Best Management Practices Program. Staff has reviewed both of these documents.
4. With respect to any and all hazardous materials that are generated, stored, used, placed or transported on or onto the Lease Premises by USS-POSCO, USS-POSCO has agreed to fully comply and be bound by existing and/or amendments to laws, regulations, ordinances, permits or other authorizations involving hazardous materials that pertain to the Lease Premises.
5. The Regional Water Quality Control Board (RWQCB) Region 2 issued a new NPDES Permit No. CA000500 (Order No. 52-2006-0029) for the POSCO facility on May 10, 2006. The water quality based effluent limits (WQBELs) in this Order are revised and updated from the limits in the previous permit. For example, the RWQCB discontinued the effluent limitation for mercury because there is no demonstration of Reasonable Potential, and therefore, no WQBELs are required. Other concentration-based effluent limitations are discontinued for other substances, e.g., lead,

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but the mass-based effluent limitations are in this Order as in the previous permit. This Order also contains concentration-based effluent limitations for copper and other specified constituents, whereas the previous permit does not.

This Order establishes compliance schedules until 2010 for listed constituents and also establishes compliance schedules for these pollutants that extend beyond one year. Pursuant to the State Implementation Plan (SIP), and 40 CFR 122.47, the Regional Water Board shall establish interim numeric limitations and interim requirements to control the pollutants. This Order establishes interim limits for these pollutants based on the previous permit limits or existing plant performance, whichever is more stringent. The RWQCB may take appropriate enforcement actions if interim limitations and requirements are not met.

6. Staff recommends that the Commission accept the back rent for the period November 18, 1994, through November 17, 2006, in the amount of \$66,784.
7. Pursuant to the Commission's delegation of authority and the State CEQA guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA under the general rule that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. The staff believes, based on the information available to it, that there is no possibility that this project may have a significant effect on the environment.

Authority: Title 14, California Code of Regulations, section 15061 (b)(3).

8. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et. seq. However, the Commission has declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code Sections 6370, et. seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the

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use classification as required by Title 2, California Code of Regulations, Section 2954 is not applicable.

EXHIBITS:

- A. Lease Description
- B. Site Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 (b)(3).

AUTHORIZATION:

1. AUTHORIZE ISSUANCE TO USS-POSCO INDUSTRIES, A CALIFORNIA PARTNERSHIP, OF A GENERAL LEASE – INDUSTRIAL USE, BEGINNING NOVEMBER 18, 2006, FOR A TERM OF 25 YEARS, FOR AN EXISTING INDUSTRIAL CONCRETE WHARF AND APPURTENANT FACILITIES ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND SHOWN ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: \$232,137 PER YEAR WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; INSURANCE: \$10,000,000 COMBINED SINGLE LIMIT; PERFORMANCE BOND: \$1,000,000.
2. AUTHORIZE ACCEPTANCE OF \$66,784 IN BACK RENT FOR THE PERIOD OF NOVEMBER 18, 1994, THROUGH NOVEMBER 17, 2006.

EXHIBIT A

PRC 7643

LAND DESCRIPTION

A Parcel of State owned Tide and Submerged Lands, situated in New York Slough, Contra Costa County, California, more particularly described as follows:

COMMENCING at a point on the northerly line of the county road running from Pittsburg to Antioch, which said road is an extension easterly of Third Street of the City of Pittsburg, and from which a concrete monument on the easterly boundary line of the City of Pittsburg at the southeast corner of Block 16, said monument also being the intersection of the northerly line of East Third Street with the easterly boundary of the City of Pittsburg, as said street, block and boundary are shown on that certain map entitled, " OFFICIAL MAP OF THE CITY OF PITTSBURG," Contra Costa County, California, filed on the 23rd day of March, 1914 in the Office of the County Recorder, Contra Costa, California, bears N 73°15'00" W, 3022.70 feet from said point; thence leaving the northerly line of said county road, N 16°45' 00 E, 253.00 feet more or less to the ordinary high water mark of New York Slough and the TRUE POINT OF BEGINNING; thence along said ordinary high water mark as surveyed for the C.A. Hooper & Company, December 1929, by R.R. Arnold, County Surveyor, the following 19 courses:

- 1) S 73°15'00" E, 30.00 feet;
- 2) S 76°45'00" E, 114.51 feet;
- 3) S 73°15'00" E, 55.70 feet;
- 4) S 61°45'00" E, 114.00 feet;
- 5) S 74°50'00" E, 362.00 feet;
- 6) N 73°30'00" E, 47.01 feet;
- 7) N 26°31'00" E, 156.27 feet;
- 8) S 66°30'00" E, 135.00 feet;
- 9) S 59°30'00" E, 163.00 feet;
- 10) S 77°00'00" E, 137.00 feet;
- 11) N 75°15'00" E, 107.00 feet;
- 12) N 68°00'00" E, 83.00 feet;
- 13) N 87°49'30" E, 64.01 feet;
- 14) S 82°54' 00" E 101.44 feet;
- 15) S 71°32'00" E, 100.05 feet;
- 16) S 76°10'00" E, 72.00 feet;

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- 17) S 69°10'00" E, 212.00 feet;
- 18) S 70°35'00" E, 857.72 feet;
- 19) S 80°30'00" E, 192.75 feet; thence leaving said ordinary high water mark the following courses:
- 20) N 16°45'00" E, 409.10 feet;
- 21) N 81°58'48" W, 1549.33 feet;
- 22) S 16°45'00" W, 101.37 feet;
- 23) N 82°31'55" W, 1117.81 feet;
- 24) N 77°04'55" W, 282.47 feet;
- 25) S 16°45'00" W, 117.39 feet to the true point of beginning.

END OF DESCRIPTION

