

**CALENDAR ITEM
C26**

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10/27/11

WP 1589.1

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V. Caldwell

**CONSIDER RATIFICATION OF ASSIGNMENTS, TERMINATION OF HOLDOVER
TENANCY, AND ISSUANCE OF NEW GENERAL LEASE - INDUSTRIAL USE**

LESSEE:

Domtar Gypsum America Inc.

APPLICANT:

Georgia-Pacific Gypsum, LLC

AREA, LAND TYPE, AND LOCATION:

7.49 acres, more or less, of filled and unfilled sovereign land in the San Joaquin River, adjacent to 801 Minaker Drive, near the city of Antioch, Contra Costa County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing industrial facility which includes filled land improved with a service road, open stockpile area, elevated conveyor system, fencing, electrical service, a portion of storm water discharge pipeline, mooring line tie downs, concrete bulkhead, rock berm, and other appurtenant facilities; and unfilled land improved with a vehicle bridge, wooden wharf docking structure, attached wood docking fender system with railed topside walkway, conveyor system with appurtenant facilities, a portion of a storm water discharge pipeline, and portions of the bulkhead and rock berm.

LEASE TERM:

Five years, beginning December 1, 2011.

CONSIDERATION:

\$117,455 per year; with annual modification by the Consumer Price Index; and the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

1. Insurance:
Liability insurance with combined coverage of no less than \$5,000,000.

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2. Bond:
Surety Bond in the amount of \$375,000.
3. The lease includes a special provision requiring the Applicant to submit, within 12 months of execution of the lease, an application to amend the lease for construction and repairs related to a final rehabilitation plan for the docking facilities. The amendment for the final rehabilitation plan will be brought before the Commission sometime in 2012-2013 with rehabilitation to be completed by 2015.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On May 27, 1982, the Commission authorized Lease No. PRC 1589.1, a General Lease – Industrial Use, to Domtar Gypsum America, Inc., for the authorized improvements listed above. On December 31, 1987, Domtar Gypsum America, Inc. merged with Domtar Gypsum, Inc., a Delaware corporation. Subsequently, on April 15, 1996, Domtar Gypsum, Inc. changed its name to G-P Gypsum Corporation. Finally, on December 31, 2006, G-P Gypsum Corporation assigned the lease to Georgia-Pacific Gypsum LLC (GP-Gypsum). The above assignments were not previously approved by the Commission. Staff recommends ratification of the assignments.
3. On November 2, 2000, GP-Gypsum submitted an application for a new General Lease – Industrial Use prior to the expiration of the lease on December 1, 2000. The application remained incomplete due to negotiation on an inspection of the wharf and docking system and agreement on annual rent. In 2004, GP Gypsum agreed to an inspection and in March 2005 an inspection letter was submitted to Commission staff that outlined deficiencies in the wooden pile and fender docking system. The inspection report did not include an underwater inspection and the Commission's engineering staff requested a more extensive inspection.
4. In 2008, as requested by Commission staff, GP-Gypsum contracted for a more extensive condition and berthing analysis which confirmed previously identified deficiencies. The Consultants developed three concepts for terminal rehabilitation with associated costs based on this analysis.. At that time, GP-Gypsum requested more time for an in-house analysis of the concepts and costs.
5. During 2011, staff finalized the negotiation for additional rent and an agreement with GP-Gypsum to rehabilitate the docking facilities. The

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lease includes a provision whereby GP-Gypsum will submit an application to amend the lease within 12 months for the future rehabilitation work to be completed by 2015.

6. On May 24, 2007, staff informed GP-Gypsum that a review of its rent was being performed in accordance with the lease provisions. Staff negotiated additional holdover rent in the amount of \$324,292 for the period of December 1, 2007 to November 31, 2011 and recommends its acceptance in satisfaction of all amounts owed under the lease.
7. The the berthing and offloading facilities on the lease premises support a gypsum material manufacturing facility. Gypsum rock is mined on San Marcos Island, Mexico, and transported via ship to GP-Gypsum's Antioch plant. The ship is met by two tugboats, which assist in the docking process. Mooring lines are attached to five dolphins on the wharf and one mooring point located on shore. The ships have a conveyor unloading system, with a conveyor boom which lays out over a hopper on the wharf. A "sock" is attached from the conveyor boom to a hopper to mitigate any fugitive dust. This, combined with a bag house (also located on the wharf), virtually eliminates the escape of gypsum dust during the unloading process. From the hopper, the rock is deposited onto a rock conveyor, transported roughly 600 feet horizontally and about 75 feet vertically to the top center of the rock dome (not on lease premises). Underneath the rock dome is another conveyor, Rock Conveyor #4, which transports the rock to the primary crusher where it is reduced from a six-inch nominal size to less than two inches. From the crusher, the gypsum rock is ground into a fine powder. The powder is placed in a kettle which is heated externally. Application of heat to the gypsum causes a chemical reaction which drives off water and produces what is known as stucco. The stucco is transported (using a pneumatic pumping process) to the board plant. Here, the stucco is mixed with proprietary additives and water to produce a variety of wall board products.
8. GP-Gypsum has provided Commission staff with current permits from California State Water Resources Control Board – General Storm Water; Delta Diablo Sanitation District – Industrial Wastewater Discharge; and Bay Area Air Quality Management District – Operations. They have an updated Spill Prevention Control and Countermeasure (SPCC) Plan and a Storm Water Pollution Prevention Plan (SWPPP). There are no current open violations.
9. **Ratification of Assignments and Termination of a Holdover Tenancy:** Pursuant to the Commission's delegation of authority and the State CEQA

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guidelines [Cal. Code Regs., title 14, §15060, subd. (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.

10. **Issuance of New Lease:** Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Cal. Code Regs., title 14, §15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 14, California Code of Regulations, section 15301.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

11. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. Based upon the staff’s consultation with the persons nominating such lands and through the CEQA review process, it is the staff’s opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Site and Location Map
- B. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Ratification of Assignments and Termination of a Holdover Tenancy: Find that the activity is not subject to the requirements of 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.

Issuance of New Lease: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities, Title 2, California Code of Regulations, section 15301.

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SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370, et seq.

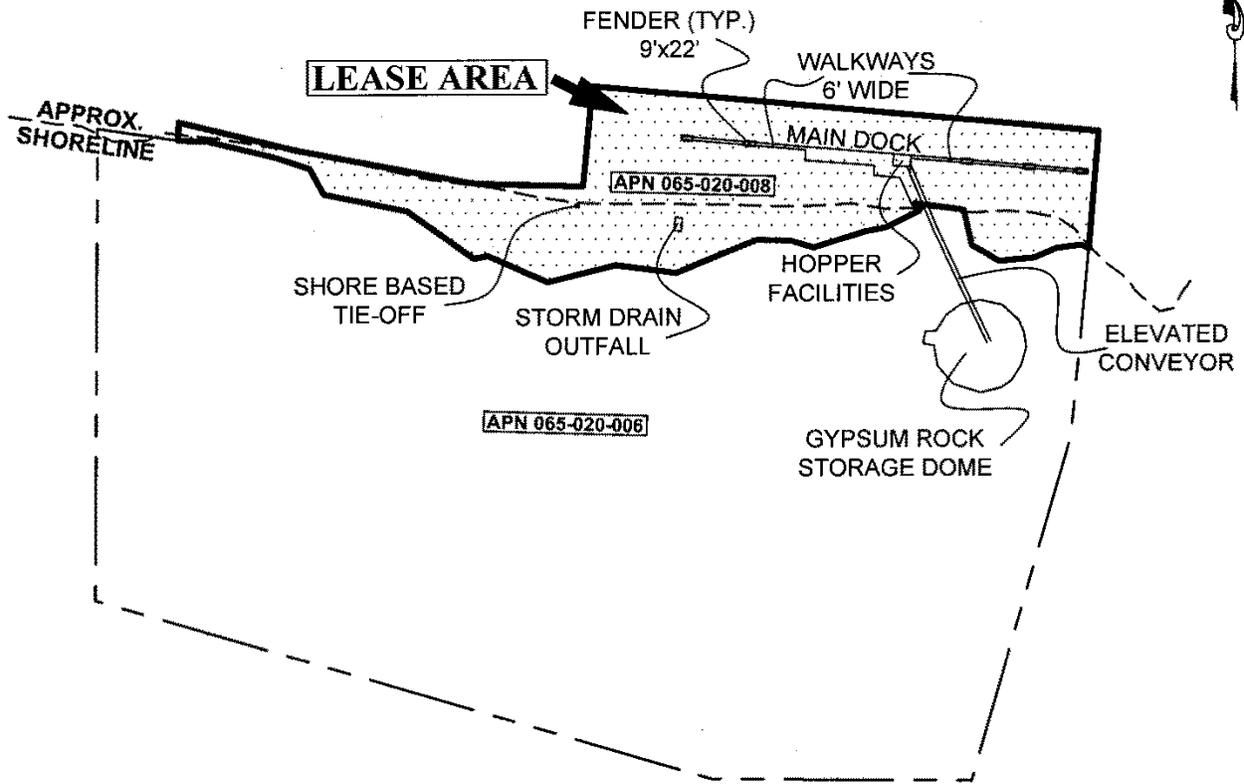
AUTHORIZATION:

1. Ratify the prior assignments from Domtar Gypsum America Inc. to Georgia-Pacific Gypsum, LLC.
2. Authorize acceptance of additional holdover rent in the amount of \$324,292 from December 1, 2007 to November 30, 2011.
3. Authorize termination of holdover tenancy of Lease No. 1589.1 effective November 30, 2011.
4. Authorize Issuance of a General Lease-Industrial Use to Georgia-Pacific Gypsum LLC beginning December 1, 2011, for a term of five years, for the continued use, maintenance, and operation of an existing industrial facility on filled and unfilled lands as shown on Exhibit A attached (for reference purposes only) and as described on Exhibit B and by this reference made a part hereof; annual rent in the amount of \$117,455, with annual modification by the Consumer Price Index, and the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance in the amount of no less than \$5,000,000; and surety bond in the amount of \$375,000.

NO SCALE

SITE

SAN JOAQUIN RIVER



801 MINAKER DR.
ANTIOCH, CA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 1589.1
GEORGIA-PACIFIC
GYPSUM LLC.
GENERAL LEASE -
INDUSTRIAL USE
CONTRA COSTA CO.



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT B

LAND DESCRIPTION

WP 1589

A parcel of tide and submerged land lying in the bed of the San Joaquin River, Contra Costa County, California, approximately one mile east of Antioch, California, more particularly described as follows:

COMMENCING at Sando R.M. 1, Zone 3, California Coordinate System, coordinates being X = 1,629,601.00 and Y = 553,227.08, said R.M. 1 being S 89° 41' 58" E, 220.67 feet from the intersection of the northerly R/W lines of Wilbur Avenue and Santa Fe Railroad; thence N 20° 43' 25.2" E, 1,092.22 feet to the intersection of the easterly line of Kaiser Gypsum Co. and the southerly or left bank of the San Joaquin River being the POINT OF BEGINNING; thence downstream along said left bank,

N 63° 02' 03" W	16.26 feet; thence
S 82° 43' 30" W	47.38 feet; thence
S 67° 17' 08" W	46.62 feet; thence
S 84° 52' 58" W	67.27 feet; thence
N 60° 01' 06" W	60.03 feet; thence
N 13° 14' 26" W	69.86 feet; thence
N 82° 02' 33" W	93.90 feet; thence
S 29° 44' 41" E	16.12 feet; thence
S 63° 04' 20" W	70.66 feet; thence
S 78° 57' 33" W	41.77 feet; thence
S 72° 26' 47" W	102.79 feet; thence
N 72° 21' 00" W	46.17 feet; thence
N 89° 07' 07" W	65.01 feet; thence
S 67° 56' 27" W	165.08 feet; thence
N 82° 37' 55" W	116.97 feet; thence
S 76° 10' 17" W	133.88 feet; thence
N 66° 40' 56" W	126.32 feet; thence
S 79° 06' 53" W	26.48 feet; thence
N 54° 33' 04" W	157.05 feet; thence
N 78° 20' 46" W	163.37 feet; thence
N 28° 51' 21" W	55.95 feet; thence
N 71° 33' 54" W	72.73 feet; thence
N 76° 04' 18" W	128.79 feet; thence
N 87° 07' 11" W	58.07 feet to a point on the west property

line of Kaiser Gypsum; thence leaving said left bank of the San Joaquin River N 1° 23' 51" E, 34.46 feet; S 76° 14' 24" E, 233.09 feet; S 79° 06' 30" E, 349.98 feet; S 88° 38' 30" E, 205.06 feet; thence N 5° 13' 30" E, 123.95 feet; N 4° 34' 11" E, 70.00

feet; S 84° 46' 30" E, 972.84 feet to a point on the waterward extension of the easterly property line of Kaiser Gypsum Co.; thence along the easterly boundary S 4° 34' 11" W, 227.73 feet to the point of beginning.

END OF DESCRIPTION

REVIEWED JULY 15, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.