

42

This Ord.

was

No. 42

is

to 0

meeting.

11/27/78<sup>3</sup>

MINUTE ITEM

11/78

Greenwood

## 42. AWARD OF MINERAL EXTRACTION LEASE - PRC 5534.1

During consideration of Calendar Item 42, attached, Mr. F. J. Hortig, representing Morris Tug and Barge Co., advised the Commission that as the successful bidder, they are willing to pay for the cost of the preparation of the Environmental Impact Report, which was estimated to be between \$2,000 and \$3,000.

Mr. Kay Bell, the original applicant for the subject lease, appeared in opposition to the staff's recommendation. Mr. Bell's opposition was based on the fact that as the original applicant, he had been in the process for the past five years of obtaining the required permits from other governmental agencies. During this time, he had expended a good portion of his capital, and had not been advised until a year ago that the lease would be awarded through competitive bid. Mr. Bell also stated he had better equipment to perform the work than Morris Tug and Barge. Other allegations made by Mr. Bell were that: 1) he had been denied information by staff of the Commission; and 2) Morris Tug and Barge had been extracting minerals in the vicinity of this lease area for a period of time.

N. Gregory Taylor, Assistant Attorney General, explained to the Commission that his office had researched the possibility of not using the competitive bidding process, but had found no precedent to avoid it due to existing statutes. With regard to the various permits which Morris Tug must obtain and the equipment it will use, Chairman Kenneth Cory noted that if they do not conform to the requirements set forth in the lease, the lease will become invalid. However, Mr. Cory asked staff to look into Mr. Bell's claims that he had been denied information by staff. At this time, Mr. Taylor pointed out for the record that if the information sought by Mr. Bell included the inspection of the bid packages, staff would have been unable to grant his request. He explained that only the successful bid package would be available for public inspection and only after all the bids were open.

Mr. Cory also instructed staff to investigate the allegation that Morris Tug and Barge had been extracting minerals in the same vicinity without obtaining the appropriate leases.

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MINUTE ITEM 42. (CONTINUED)

The Commission was sympathetic to Mr. Bell's position, but because of the statutory requirement that this lease be processed through the competitive bid procedure, they were unable to assist him. Staff did, however, advise Mr. Bell that other leases would be coming up for bid in the near future.

Upon motion duly made and carried, the resolution, as presented in Calendar Item 42, was approved by a vote of 3-0.

Attachment: Calendar Item 42 (5 pages)

CALENDAR ITEM

42.

11/78  
PRC 5534.1  
Greenwood

AWARD OF MINERAL EXTRACTION LEASE

At the Commission Meeting of August 31, 1978, the Commission authorized the staff to offer for competitive bid, a lease of a portion of South San Francisco Bay for the extraction of minerals other than oil, gas and geothermal resources. The area is known to contain commercially-valuable oyster shell deposits. In accordance with this authorization, the staff prepared a bid package and a notice inviting responses was published twice in Los Angeles Daily Journal on September 14, 1978, and on September 21, 1978, and twice in the San Francisco Chronicle on September 14, 1978, and on September 21, 1978, calling for a bid opening on October 5, 1978.

On October 5, 1978, the bids were opened in accordance with the notice in the Commission's Long Beach Office, and Morris Tug and Barge, Inc. was the high bidder with a bid factor of 1.81. The only other bid was that of Kay Bell, Jr., an individual, in the amount of 1.52. The bid factor 1.81 is to be applied to the royalty formula attached as Exhibit "C" hereto. The bid factor operates as a multiplier to the lease royalty formula which will effectively result in the payment of royalties at 18.1% of the average sales price. The minimum annual rental for the first 2 years is \$6,000 per year, and \$12,000 for each year thereafter. The lease has a primary term of 10 years with two 5-year rights of renewal with the State having the right to review and adjust at 5-year intervals.

The Office of the Attorney General has reviewed and approved the bid of Morris Tug and Barge, Inc. as being in compliance with the Commission's proposal to enter into a Mineral Extraction Lease on those specified sovereign lands in South San Francisco Bay and as to compliance with applicable provisions of law and the rules and regulations of the State Lands Commission.

EXHIBITS:           A. Legal Description.   B. Location Map.  
                  C. Royalty Formula.

IT IS RECOMMENDED THAT THE COMMISSION, IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 6 OF THE P.R.C., AUTHORIZE THE ISSUANCE OF A MINERAL EXTRACTION LEASE TO MORRIS TUG AND BARGE, INC., ON 1,560 ACRES OF SOVEREIGN LANDS IN SOUTH

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CALENDAR ITEM NO. 42. (CONTD)

SAN FRANCISCO BAY, ALAMEDA AND SAN MATEO COUNTIES, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF; AT A ROYALTY DETERMINED IN ACCORDANCE WITH THE FORMULA ATTACHED AS EXHIBIT "C" AND THE OTHER TERMS AND CONDITIONS AS SET FORTH IN THE LEASE OFFERING.

EXHIBIT "A"

PRC 5534.1

Proposed Lease Area Description

A parcel of submerged land in the South San Francisco Bay lying southerly of the southern boundary of the City of South San Francisco, partially in San Mateo County and Alameda County, more particularly described as follows:

W $\frac{1}{2}$  of Section 4, all of Section 5, and all of Section 6 excepting the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of said Section 6, all in T. 4 S., R. 3 W., M.D.B.& M., containing 1560 acres more or less.

APPLICATION FOR AUTHORIZATION  
OF BID LEASE

by  
KAY BELL JR.

ALAMEDA & SAN MATEO COUNTIES  
PRC 5534.1

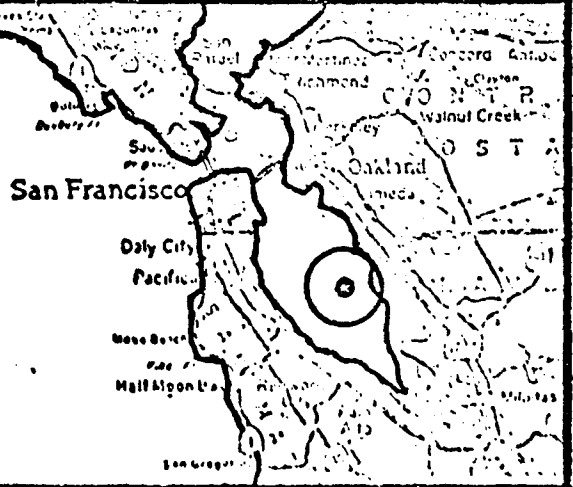
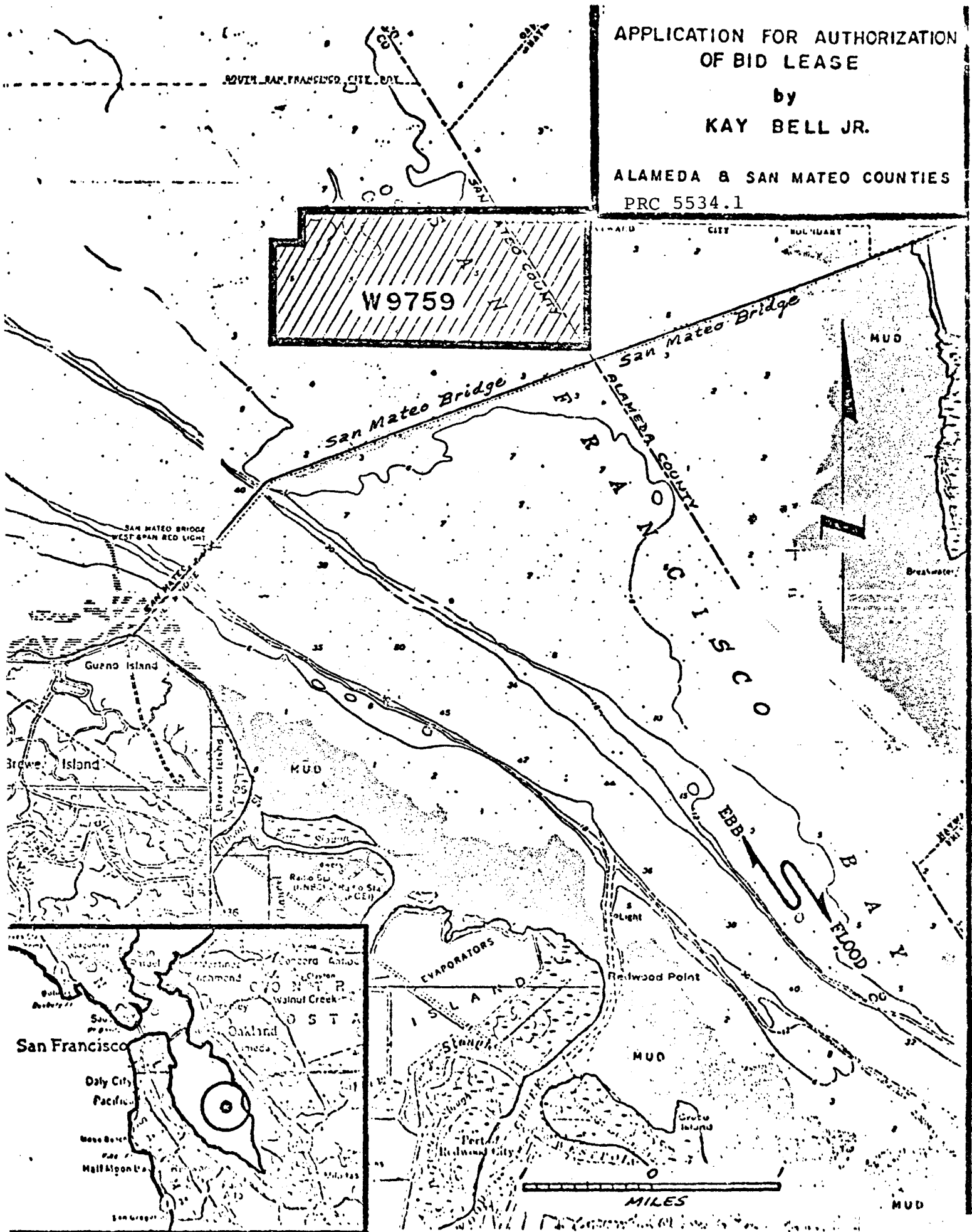


EXHIBIT "B"

Section 3

CONSIDERATION:

Royalties for the mineral resources produced or extracted are to be determined according to the following formula:

$$R = B \sqrt[0.10]{C (T)} \sqrt{\quad}$$

Where R=royalty in dollars and cents paid to the State,

B=bid factor of 1.81, which shall be greater than or equal to 1.0.

C=weighted average lease quarter sales price, f.o.b. the dock, per ton.

T=total lease quarter tonnage sold.

The weighted average sales price (WASP) per lease quarter shall include consideration of wholesale and retail sales and is subject to approval and audit by the State. The royalty rate for a lease quarter shall be based upon the WASP for that quarter. In place sales shall not be permitted.

The annual minimum royalty shall be \$6,000.00 per year for the first two (2) years of the primary lease term. The annual minimum royalty shall be \$12,000 per year beginning with the third year through the end of the primary lease term. The minimum royalty per ton shall not be less than \$0.50.

All terms and conditions of the royalty schedule shall be subject to review and possible readjustment at the end of the fifth year of the primary lease term.