

MINUTE ITEM

This Calendar Item No. 27
was approved as Minute Item
No. 27 by the State Lands
Commission by a vote of 3
to 0 at its 1-24-80
meeting.

CALENDAR ITEM

27.

1/80
PRC 4886.1
Faber

AUTHORIZATION TO FORECLOSE ON
SURETY BONDS GUARANTEEING LESSEE'S
PERFORMANCE OF LEASE OBLIGATIONS

AREA, TYPE LAND AND LOCATION:

1.77 acres of tide and submerged land in
San Pablo Bay at Hercules, Contra Costa
County.

LAND USE:

Maintenance and operation of a pier which
supports a pump house and a salt water pipeline
used for cooling purposes.

FACTUAL BACKGROUND:

On December 15, 1976, the State Lands Commission authorized
the assignment of a lease from Hercules Incorporated to
Valley Nitrogen Producers, Inc., (VNP). The lease involved
the Hercules Pier which is about eight hundred (800) feet
in length.

Under the terms of the assignment, VNP was obligated
to submit a plan for repairing the pier or removing and
rebuilding it. VNP was then to carry out the approved plan
within a reasonable time. Pursuant to the lease VNP was
then obligated to maintain the pier in a safe condition.
To date, no plan has been submitted.

In October, 1979, VNP filed a petition in Federal
Bankruptcy Court for a corporate reorganization. On December 13,
1979, VNP made a request of the court to reject its lease
with the State Lands Commission. The court authorized the
rejection. Such an action automatically places the lessee
in breach and gives rise to the need to foreclose on VNP's
performance bond. The pier is currently in a state of dis-
repair and has been set afire on several occasions.

By a letter dated December 19, 1979, the staff has
made a demand on the surety company which guaranteed VNP's
performance. As of this date the surety company, Fireman's
Fund Insurance Company, has not performed under the terms
of the bond. The amount of the bond (#SMR 632 24 55) is
fifty thousand dollars (\$50,000).

A 10, 11, 12

S 7, 9

-1-

CALENDAR PAGE	<u>128</u>
MINUTE PAGE	<u>135</u>

CALENDAR ITEM NO. 27. (CONTD)

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION AUTHORIZE:

1. THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE ATTORNEY GENERAL'S OFFICE TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO FORECLOSE ON FIREMAN'S FUND INSURANCE COMPANY BOND # SMR 632 26 55, AND RECOVER THE FIFTY THOUSAND DOLLARS (\$50,000) DUE AND OWING UNDER SAID BOND.
2. THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE ATTORNEY GENERAL'S OFFICE TO TAKE ALL STEPS, INCLUDING LITIGATION, TO ENFORCE ANY RIGHTS THE STATE MAY HAVE AGAINST VALLEY NITROGEN PRODUCERS, INC., HERCULES INCORPORATED, AND SEABOARD SURETY COMPANY, SURETY FOR HERCULES INCORPORATED.

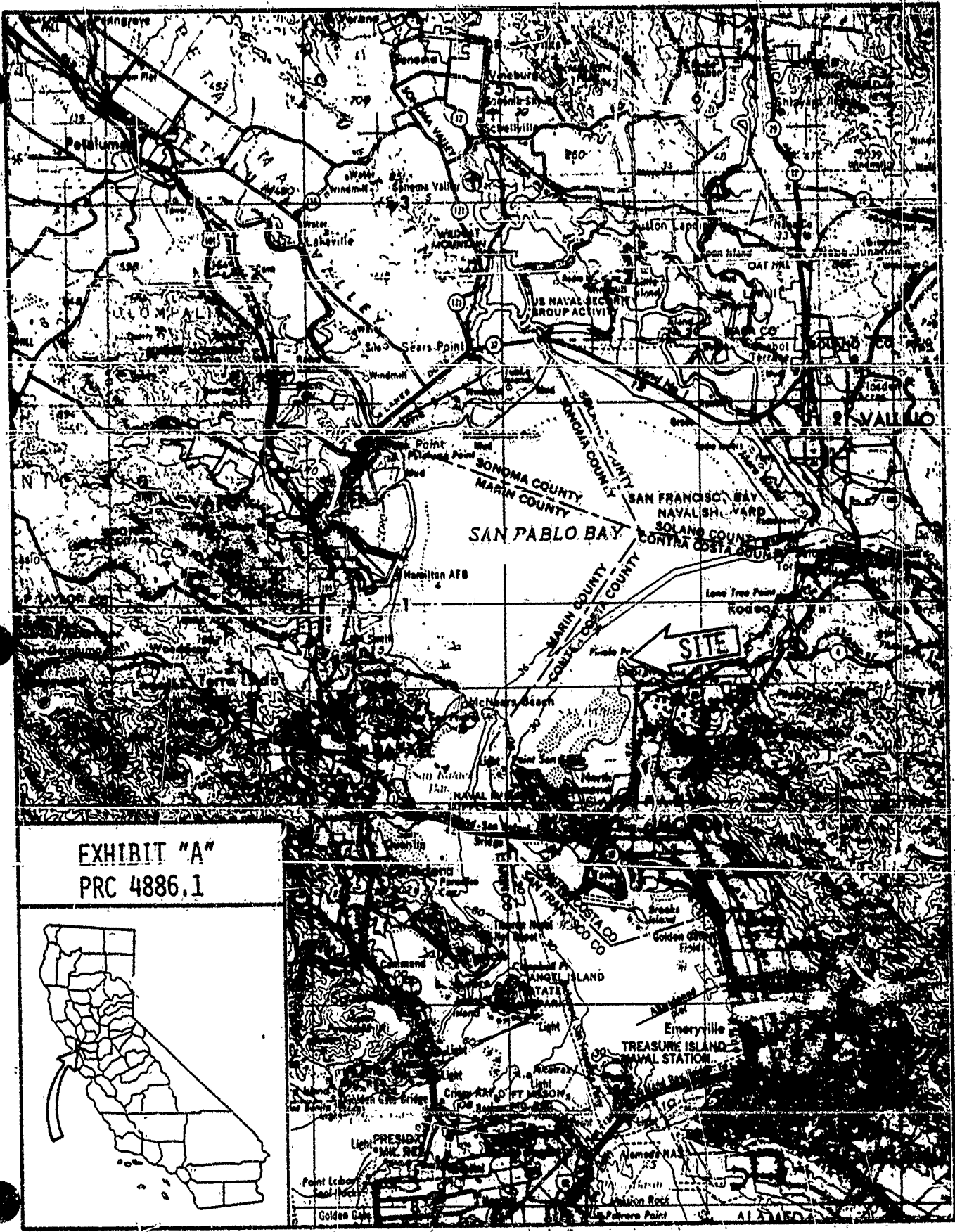


EXHIBIT "A"
PRC 4886.1



CALENDAR PAGE	130
MINUTE PAGE	137