

NOTICE: SPECIAL ACTION
TAKEN FOR OFFICIAL
RECORD, SEE BELOW.

MINUTE ITEM

20.

10/26/84
W 40185
Staff

CONSIDERATION OF AMENDED LEASE TERMS,
SPECIAL OPERATING CONDITIONS, AND OTHER PROVISIONS,
OIL AND GAS LEASING
POINT CONCEPTION TO POINT ARGUELLO
SANTA BARBARA COUNTY

During consideration of Calendar Item 20, Chairman Cory moved to adopt the Calendar Item as presented. Upon motion duly made and carried, the Calendar Item, as presented, was adopted by a vote of 3-0.

In addition to adopting the staff's recommendation, the Commission also took the following action:

1. N. Gregory Taylor, Assistant Attorney General, gave the commissioners a brief statement regarding the October 25, 1983 Santa Barbara Superior Court Decision in the case entitled Fisheries Protection Institute, Inc., et al., vs. California Coastal Commission and California State Lands Commission, No. 147241. Claire Dedrick, Executive Officer, proposed that the Commission not go ahead with the lease sale and seek appropriate legal action with regard to the aforementioned Decision.

Upon motion duly made and carried, the Commission authorized postponement of the Point Conception to Point Arguello Lease Sale for an indefinite period, by a vote of 3-0.

2. Upon motion duly made and carried, the Commission authorized staff of the State Lands Commission, in conjunction with staff of the Attorney General, to take appropriate legal action regarding the Santa Barbara Superior Court Decision of October 25, 1983, in Case No. 147241, by a vote of 2-1. (Aye: Cory, Ordway; Nay: McCarthy.)

CALENDAR ITEM

20 -1

10/26/83
W 40185
Staff

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Shortly after the Commission approved the final lease package at the August 25, 1983 meeting, a letter was received from the Air Force seeking to impose four conditions on the oil and gas sale. In the letter from Major General Jack L. Watkins, Commander of the Headquarters, First Strategic Aerospace Division, USAF, they requested:

1. Subsea completions for wells on all leased parcels (this would apply north to Point Sal as well);
2. No shore-based facilities on the base.
3. Exploration and production drilling from mobile drill vessels;
4. Standard clauses for (a) shelter and evacuation of personnel; and (b) hold harmless.

These limitations would have severely limited resource development. Several meetings were held with Air Force representatives culminating in a session in Washington, D. C., with Air Force Secretary Verne Orr. As a result, the Air Force has withdrawn its request and agreed to changes in the lease provisions affecting liability, indemnification, assumption of risk and hold harmless.

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Changes have therefore been proposed for the lease and special operating conditions. These proposed amendments do not affect any Special Operating Condition pertaining to any environmental studies or protection provisions. Special Operating Condition 7 is proposed to be included in the body of the lease within paragraph 14. Paragraphs 16 and 17 have been renumbered and include the Air Force in the insurance provisions.

AB 884: N/A.

EXHIBITS: A. Proposed Lease Changes.
B. Proposed Special Operating Condition Change.

IT IS RECOMMENDED THAT:

1. THE COMMISSION APPROVE THE LEASE PACKAGE AMENDMENTS AS PROPOSED AND SOLICIT BIDS ON THE REVISED LEASE PACKAGE ON NOVEMBER 18, 1983.
2. (CEQA FINDING OF AUGUST 12, 1983).

EXHIBIT "A"

14. LIABILITY, INDEMNIFICATION, AND ASSUMPTION OF RISK AND HOLD HARMLESS

(a) The Lessee shall be liable to the State for all damage to any reservoir underlying the leased lands and any loss of oil, gas or other hydrocarbon substances to the extent that they are caused by the negligence of, or the breach of any provision of, this lease by, or noncompliance with any applicable statutes or regulations by the Lessee, its employees, servants, agents or contractors. Nothing in this lease shall diminish any other rights or remedies which the State may have in connection with any such negligence or breach. The Lessee shall indemnify the State of California, its officers, agents and employees against all claims, demands, causes of action or liabilities of any kind which may be asserted against or imposed upon the State of California, its officers, agents or employees, by any third person or entity arising out of or connected with the issuance of this lease, operations hereunder, or the use by Lessee, its agents, employees or contractors of the leased lands.

(b) Whether or not compensation for damage or injury might be due under a theory of strict or absolute liability or otherwise, the Lessee assumes all risks of injury or damage to persons or property which occurs in, on or above the leased lands or results from events in, on, or above leased lands, including oil spills caused by programs or activities, e.g.,

missile debris, of the Western Space and Missile Center (WSMC) or other appropriate military or Government agency which may damage Lessee's facilities and permit such oil spillage, to any person or any property of any person who is an agent, employee or invitee of the Lessee, or its agents, independent contractors or subcontractors, in connection with any activities being performed by or for the Lessee in, on or above the leased lands, if such injury or damage to such person or property occurs by reason of the activities of any agency of the United States, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the WSMC or other appropriate military agency. The cost to Lessee, its subcontractors, and others financially associated with Lessee of temporary suspension of operations and evacuation or sheltering of personnel pursuant to paragraph 6 of Exhibit C, due to WSMC programs and activities, including all loss of profits or other losses associated therewith, shall be borne wholly by the Lessee and in no event shall be chargeable against the U.S. Air Force or the United States, or its employees, agents, or personnel.

Notwithstanding any limitations of the Lessee's liability in this lease, the Lessee assumes the risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United

States, its contractors or subcontractors, or any of their officers, agents or employees. The Lessee shall indemnify and save harmless the United States against all claims for loss, damage or injury to the Lessee and to the agents, employees and invitees of the Lessee, its agents, independent contractors and subcontractors, in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors or subcontractors, or any of their officers, agents or employees, and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

15. BONDS

The Lessee shall furnish upon execution of this lease and maintain a bond in favor of the State of California in the sum of one hundred thousand dollars (\$100,000) to guarantee the faithful performance by the Lessee of all provisions of this lease, Division 6 of the Public Resources Code and the regulations promulgated thereunder, including, but not limited to, immediate elimination of any contamination or pollution caused by or resulting from operations under this lease. If the Lessee places platforms or other fixed or floating structures on the leased lands, the Lessee shall file at the commencement of such placement and maintain an additional bond in favor of the

State of California in a reasonable amount as specified by the State, but not exceeding fifty percent (50%) of the replacement cost of the structures, to guarantee the faithful performance by the Lessee of the placement of the structures, their maintenance and their removal at the State's request upon the expiration or sooner termination of this lease. All bonds shall require the surety to give at least ninety (90) days' written notice of its intention to cease acting as guarantor. If a surety gives notice of its intention to cease acting as guarantor, the Lessee shall provide to the State within sixty (60) days of such notice a replacement bond of equal value to become effective upon the expiration of the existing bond. Failure to provide such a replacement bond within the required time shall constitute a default entitling the State to levy against the entire amount of the existing bond.

16. LIABILITY FOR DAMAGES; INSURANCE; CLAIMS PROCEDURE

(a) The Lessee shall furnish upon execution of this lease a certificate showing that at all times throughout the life of this lease, the Lessee is insured against damages to third persons and their property resulting from an oil spill or other pollution caused by operations under this lease. The insurance shall be for an amount not less than ten million dollars (\$10,000,000) for each occurrence. The minimum amount may be raised by the State if economic conditions change. The

certificate of insurance shall indicate that the Lessee has obtained from a responsible insurance company acceptable to the State and U.S. Air Force, the required insurance coverage which shall include the State of California and the United States of America as named insureds, or shall demonstrate to the State and U.S. Air Force that the Lessee is capable of self-insuring the risk. The policies shall provide the requisite coverage without right of subrogation against the State, the United States, or their employees, agents, or personnel, or those of their contractors, and without regard to fault of those parties. The certificate of insurance shall remain in effect at all times throughout the life of the lease. A new certificate of insurance meeting the above requirements may be substituted by the Lessee with the State's approval.

(b) Should an oil spill or other polluting event occur which the State determines will result in the filing of a substantial number of claims against the Lessee, the Lessee shall open or cause to be opened within ten (10) days of such event a claims office in the City of Santa Barbara staffed with personnel sufficient to process all claims and having authority to settle all uncontested claims. Barring unusual circumstances, all claims shall be processed and all uncontested claims shall be settled within sixty (60) days of their filing. To facilitate

settlement of contested claims, the Lessee shall agree to arbitration of claims of five thousand dollars (\$5,000) or less and mediation of claims in excess of five thousand dollars (\$5,000). The arbitration and mediation shall be conducted pursuant to agreements prepared by the State at or before the time of the invitation for bids.

17. SURRENDER OF PREMISES

At the expiration of this lease or upon its sooner termination, the Lessee shall surrender the leased lands and all improvements on them in good condition, or the State may provide that the Lessee shall remove some or all of the structures and other fixtures placed upon the leased lands and restore the lands, in whole or in part, to their natural condition at no cost to the State. The Lessee shall not be denied the right to remove any drilling, development and production equipment having a reuse or salvage value. Before surrendering the leased lands, the Lessee shall conduct a survey of the ocean floor and provide to the State a map identifying and showing the exact location of all objects that project more than one (1) foot from the ocean floor.

EXHIBIT "B"

SPECIAL OPERATING REQUIREMENT 7: ASSUMPTION OF RISK AND HOLD HARMLESS

DELETED

[See lease Section 14: LIABILITY, INDEMNIFICATION, AND ASSUMPTION OF RISK AND HOLD HARMLESS.]"