

Kathy
The only reference to fencing is on p. 4 & rather indirect
Bill
AGREEMENT AND GRANT OF DEVELOPMENT RIGHTS

This Agreement, made and entered into this 8th day of April

1980, by and between UNION OIL COMPANY OF CALIFORNIA, a California Corporation, hereinafter called "COMPANY", and the STATE OF CALIFORNIA, acting by and through the DEPARTMENT OF GENERAL SERVICES with the approval of the DEPARTMENT OF PARKS AND RECREATION, hereinafter called "STATE";

WHEREAS, STATE PUBLIC WORKS BOARD proposes to purchase certain property from the UNION OIL COMPANY as an addition to Pismo Dunes State Vehicular Recreation Area as shown on attached Acquisition Plan identified as Drawing No. 15651 marked Exhibit "A";

WHEREAS, in addition to this purchased property COMPANY proposes to grant to STATE the right, estate, and interest to occupy and use and to prevent the further development during the term hereof of an adjacent parcel of land for specific Buffer Zone purposes in connection with the operation and maintenance of lands within Pismo Dunes State Vehicular Recreation Area;

WHEREAS, COMPANY shall retain ownership of other real property contiguous and adjacent to the Buffer Zone and conduct various industrial uses and operations on said other real property next to the Buffer Zone.

WHEREAS, it is in the interest of the parties hereto to enter into this Agreement for the purposes and on the conditions hereinafter referred to;

NOW, THEREFORE, the parties hereto hereby mutually agree as follows:

COMPANY hereby grants to the STATE the right, estate, and interest to occupy and use and to prevent the development during the term hereof, except as herein provided of that certain parcel of land (said parcel) as delineated in red on the attached Exhibit "A", which exhibit by this reference is made a part hereof such right, estate, and interest shall endure for a term of five (5) years beginning on May 1, 1980 and ending on April 30, 1985 and such term shall be automatically renewed at the end of such five year term, and at the end of any subsequent five year term, for an additional period of five years, unless notice of non-renewal is given in writing, by COMPANY to STATE. In the event of such notice the right, estate, and interest of STATE under this agreement shall terminate two (2) years after the end of the five year term within which such notice was served on STATE. Such right, estate, and interest is subject to the following terms and conditions:

1. STATE shall use, operate, and maintain said parcel only as a part of the State Park System for the purpose of providing a buffer zone, between other property of the STATE and other property owned by COMPANY adjacent to said parcel, and for uses and operations consistent with providing a buffer zone which shall include security patrol or emergency access, preservation of scenic values, natural interpretation through guided tours, preservation, maintenance, preventive maintenance, or rehabilitation of existing land conditions such as dunes, dune foliage, wetland, flora and fauna habitats, and such other uses as are consistent with the Buffer Zone concept described herein.

2. STATE shall not allow entry upon or occupancy of said parcel by the general public or by anyone for uses other than as described herein, or any use, except as provided for herein, which requires access to said parcel by anyone other than State Park System personnel, other relevant employees or agents, or contractors of the STATE without express written consent of COMPANY.

3. The STATE shall install and maintain boundary markers, and appropriate warning markers along the boundary between the State Park System and said parcel and prohibit access except as herein provided to the buffer area within said parcel. STATE shall maintain and place warning markers on COMPANY's existing fence and any fence subsequently installed within said parcel along said western edge of the railroad right of way. COMPANY and STATE shall have the right to use COMPANY's existing gate for access to said parcel at all times. Except as herein provided STATE shall not be required to expend funds for development within said parcel.

4. COMPANY may use and occupy that portion of said parcel indicated in blue and labelled "Company Use Area" on Exhibit A for uses necessary and beneficial to COMPANY's other real property in the area and operations thereof and not inconsistent with the Buffer Zone concept and the provisions of this Agreement; provided, however, that COMPANY may not further develop or expand operations on said parcel except to maintain, repair, replace, or reconstruct existing facilities or to construct such other new facilities as are approved in writing by the STATE as consistent with the Buffer Zone concept in the reasonable opinion of the STATE. COMPANY and STATE hereby agree that uses in the Company Use Area which are not inconsistent with the Buffer Zone concept include, but are not limited to the following:

- storage of non-operating equipment and non-hazardous materials such as pipes, construction materials, pumps, product containers, and such protective shelters as may be required.
- inspection, access, maintenance and security patrols; and
- use of Company Use Area on a short-term basis as a staging or prefabrication area during construction of improvements or repairs to facilities on COMPANY's other real property in the area.

COMPANY and STATE agree that the following uses in the Company Use Area would be inconsistent with the Buffer Zone concept: employee or contractor parking, temporary office or trailer facilities, additional permanent structures, including climate controlled storage facilities, warehouses which require utility service or other operational equipment.

COMPANY shall maintain existing pipelines and other existing facilities and operations in said parcel and shall have reasonable rights of access, use, and maintenance of such pipelines and facilities.

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Notwithstanding any description herein of non-permitted uses in the Company Use Area or Buffer Zone to the contrary, COMPANY shall retain the right to develop its subsurface rights in drill sites located at mutually agreeable sites within the Buffer Zone, to install, operate and maintain the equipment and facilities required to develop the subsurface resources and to have necessary access to pipelines and other required facilities in the Buffer Zone to support such drill sites.

5. STATE shall not be responsible for the protection, care, maintenance, or control of any property or equipment stored in or placed by or for COMPANY within said parcel, anything herein to the contrary notwithstanding.

6. COMPANY and its employees, agents and contractors, subject to the limitation on development, and disturbance of STATE improvements as herein provided, shall at all times retain the right to enter said parcel to observe, inspect, test, study, and otherwise monitor conditions on the entire parcel for purposes of determining STATE'S adherence to the terms of this Agreement, the condition of the parcel, possible effect of changing conditions of said parcel on COMPANY'S other real property and operations in the area, and such other purposes as are consistent with this Agreement. Except for the uses described herein as reserved to COMPANY, STATE'S occupancy of the parcel shall be exclusive, and COMPANY shall not assign or delegate or otherwise transfer its retained rights hereunder except as they may be transferred with said parcel or said other real property.

7. The right, estate, or interest of STATE under this Agreement shall be terminable on 30 days written notice to STATE by COMPANY in the event STATE after 90 days written notice specifying a breach of this Agreement does not cure or diligently carry out work to cure any breach of the restriction, covenants, or obligations upon STATE under this Agreement, or on written notice in the event any condemnation proceedings are initiated by the STATE, or on written notice in the event any other Agency with eminent domain powers establishes a more necessary public use than the STATE.

8. COMPANY does not warrant or represent the appropriateness of said parcel for the use as a buffer zone for Pismo Dunes State Vehicular Recreation Area and by execution of this Agreement does not establish, alter, waive or modify, or expand the responsibilities, liabilities or obligations of COMPANY with regard to conduct of activities on its adjoining real property which is being used for operation of an oil refinery, coke plant, and similar activities.

9. COMPANY and STATE agree to provide each other with current information, schedule and description of all personnel, equipment and material using or occupying during the term of this Agreement, said parcel two weeks prior to such occupation or use; and in circumstances requiring prompt action, as conditions permit, so that COMPANY and STATE may coordinate such use and prevent or minimize any inference, risk, or damage.

10. STATE hereby covenants and agrees, to extent it may legally do so and subject to availability of funds, to indemnify COMPANY against liability, losses, damages, or costs which COMPANY may suffer as a result of claims, demands, or judgments against it resulting from a negligent act or omission by STATE except such as arise out of the concurrent or sole negligence of COMPANY or by reason of the use of said parcel by COMPANY as herein provided.

11. It is understood and agreed that this Agreement and the right, estate, and interest herein given may be terminated by STATE by giving one hundred eighty (180) days written notice to COMPANY.

12. Any notice, demand, or request required or authorized by this Agreement to be given or made to or upon STATE shall be deemed properly given or made if delivered by certified mail, postage prepaid to: State of California, Department of Parks and Recreation, P.O. Box 2390, Sacramento, CA 95811.

The notice, demand, or request required or authorized by this Agreement to be made to or upon COMPANY shall be deemed properly given or made if delivered by certified mail postage prepaid to the Union Oil Company of California, P.O. Box 7600, Los Angeles, CA 90051, Attention: Vice President, Refining and Supply, 76/w (and a copy to Manager, Santa Maria Refinery, Union Oil Company of California, Route 1, Box 7600, Arroyo Grande, CA 93420).

The designation of the person to or upon whom any notice, demand, or request is to be given or made, or the address of any such person may be changed at any time by notice given in the same manner as provided in this article for other notices. Nothing herein shall preclude the giving of notice by personal service.

13. All obligations of STATE under this Agreement are subject to availability of funds appropriated therefor. Failure of STATE to meet its obligations hereunder because of non-availability of funds shall constitute a breach of this agreement for purposes of paragraph 7. *well, well*

14. Anything herein to the contrary notwithstanding, COMPANY shall not damage or disturb any boundary marker, fence, warning marker, or any other STATE improvement to said parcel, permitted by this Agreement. After the end

of the term hereof or the sooner termination thereof, STATE may, at the STATE'S option, remove any boundary marker, fence, warning marker, or any other STATE improvement to said property. All such material and improvements shall be the property of the STATE.

15. If the COMPANY'S right to terminate the right, estate, and interest granted to STATE under this Agreement is exercised effective before the end of the twelfth year under this Agreement, COMPANY agrees to pay STATE one-half of the COMPANY necessarily incurred actual costs to install the fence, required to be installed by Property Acquisition Agreement dated April 8, 1980 between COMPANY and STATE, over and above the estimated salvage value, if any, of said fence.

16. STATE agrees not to unreasonably withhold approval of a license or permit issued to the property owner adjoining Black Lake to permit such owner to enter the portion of said parcel immediately adjacent to Black Lake to do erosion control work to control sand dune movement which is otherwise consistent with the terms and conditions of this Agreement.

17. Except as expressly provided herein there is no intent by COMPANY to dedicate said parcel to public use or waive any of its rights regarding said parcel.

APPROVED

Description:

R. F. Piny

Legal Dept:

CKJ

Operating Dept:

E. P. Barnett

Division Real Estate

Division

J. E. Green

N-8953C

Frederick Anderson

STATE OF CALIFORNIA

DEPARTMENT OF GENERAL SERVICES

BY: Edward R. Miller
Chief Land Agent

DATE

UNION OIL COMPANY OF CALIFORNIA

BY: William K. G. [Signature]
VICE PRESIDENT

Date April 8, 1980

DEPARTMENT OF PARKS AND RECREATION

-8- BY: Bob [Signature] APR 28 1980

Director DATE

Deputy Director

