

MINUTE ITEM
This Calendar Item No. 29
was approved as Minute Item
No. 29 by the State Lands
Commission by a vote of 3
to 1 at its 3/27/90
meeting.

CALENDAR ITEM

A 26.

29

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03/27/90
W 20223
PRC 7080
Gordon

RESCISSION OF PRIOR AUTHORIZATION AND
AUTHORIZATION FOR EJECTMENT AND COLLECTION OF RENTS

APPLICANT: Henry Lawler and Max Seely
Lost Isle Marina
River Route - Acker Island
Stockton, California 95209

AREA, TYPE LAND AND LOCATION:
A 0.186-acre area of tide and submerged land,
located in the San Joaquin River at Acker
Island, San Joaquin County.

LAND USE: Maintenance of boating and barge facilities;
and maintenance of an underground power line.

TERMS OF AUTHORIZED PERMIT:
Initial period: 15 years beginning
November 21, 1984.

Public liability insurance: Combined single
limit coverage of \$500,000.

Special:

1. The permit is conditioned on the consent of a littoral owner as to any structure located adjacent to littoral upland.
2. The permit restricts the use of the facilities for residential purposes.

CALENDAR ITEM NO. 29 (CONT'D)

CONSIDERATION: \$366.52 per annum, as to docks, a barge and piling; and \$100 per annum, as to an underground power line; with the State reserving the right to fix a different rental on each fifth anniversary of the permit.

BASIS FOR RESCISSION AND EJECTION:

1. Failure to pay annual rental beginning November 21, 1989 through November 20, 1990 (Section 4, Paragraph 2(a)(1) of the authorized permit).
2. Failure to provide and maintain comprehensive liability insurance (Section 4, Paragraph 8 of the authorized permit).

DEMANDS:

By letters of:

June 2, 1987
July 9, 1987
August 17, 1987
September 17, 1987
October 19, 1988
December 8, 1988
January 6, 1989
March 24, 1989
April 28, 1989
July 12, 1989
November 8, 1989
February 14, 1990

CURRENT STATUS:

The Commission staff has diligently attempted to collect back rental and obtain the required certificate of insurance. Henry Lawler and Max Seely have been unresponsive to repeated requests.
N/A

AB 884:

OTHER PERTINENT INFORMATION:

1. At its meeting on May 28, 1987, the Commission, in Minute Item 8, authorized the issuance of General Permit - Recreational Use, PRC 7080, to Henry Lawler and Max Seely for maintenance of boating and barge facilities; and maintenance of an underground power line, all to serve Applicant's operation of Lost Isle Marina

at Acker Island. Staff has been unable to issue the subject permit because of Applicant's failure to pay the rental and provide the certificate of insurance required by the terms of the Commission's initial authorization.

2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs 15378.

EXHIBITS:

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS 15378.
2. RESCIND ITS ACTION OF MAY 28, 1987 (MINUTE ITEM 8), WHICH AUTHORIZED ISSUANCE OF GENERAL PERMIT - RECREATIONAL USE, PRC 7080, TO HENRY LAWLER AND MAX SEELY FOR MAINTENANCE OF BOATING AND BARGE FACILITIES; AND MAINTENANCE OF AN UNDERGROUND POWER LINE.
3. AUTHORIZE THE STAFF ENFORCEMENT OFFICER, STAFF COUNSEL AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION TO TERMINATE THIS CONTINUING OCCUPATION OF SOVEREIGN LANDS AND TO COLLECT EQUITABLE AND REASONABLE COMPENSATION FOR THE USE OF SUCH LANDS, PLUS ALL COSTS THE STATE INCURS IN REPOSSESSING THE LANDS, TOGETHER WITH ANY OTHER LEGAL OR EQUITABLE REMEDIES THAT MAY BE APPROPRIATE OR NECESSARY, INCLUDING, BUT NOT LIMITED TO, MONIES TO RESTORE THE SITE TO ITS CONDITION PRIOR TO OCCUPANCY BY THE SUBJECT FACILITIES.

EXHIBIT "A"

LAND DESCRIPTION

W 20223

All that tide and submerged land in the bed of the San Joaquin River lying immediately beneath the structures associated with Lost Isle Marina along the northwest shore of Acker Island, San Joaquin County, California, said structures lying northwesterly and waterward of the land described in the Grant Deed recorded November 21, 1984, in the San Joaquin County Recorders Office, Recorders No. 84079021, said structures to include existing docks, pilings, a barge, an underground powerline across the San Joaquin River from Acker Island to McDonald Tract, and a pier adjacent to McDonald Tract, TOGETHER WITH necessary use areas extending no more than 10 feet from the extremities of all said structures but the pilings.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the San Joaquin River.

END OF DESCRIPTION

PREPARED JANUARY 28, 1986, BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR

CALENDAR PAGE	241
MINUTE PAGE	596



EXHIBIT "B"
W 20223

