

**MINUTE ITEM**

This Calendar Item No. C31 was approved as Minute Item No. 31 by the California State Lands Commission by a vote of 3 to 0 at its 12-3-99 meeting.

**CALENDAR ITEM**

**C31**

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12/03/99  
PRC 7215.1  
J. Ludlow

**TERMINATION OF  
GENERAL LEASE - RIGHT OF WAY USE**

**LESSEE:**

Smith River Power  
136 View Circle  
Felton, CA 95018

**AREA, LAND TYPE, AND LOCATION:**

6.93 acres, more or less, of sovereign lands in the bed of the Klamath and Smith Rivers, near Klamath, Del Norte County.

**AUTHORIZED USE:**

Installation and maintenance of a 35 kV electrical power transmission line.

**LEASE TERM:**

20 years, beginning July 1, 1988.

**CONSIDERATION:**

\$936 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability insurance with coverage of no less than \$1,000,000.

Bond:

Surety in the amount of \$2,000.

**OTHER PERTINENT INFORMATION:**

1. On June 30, 1988, the Commission issued a twenty year General Lease - Right of Way Use, for a 35 kV transmission line crossing the Smith and Klamath Rivers, to Smith River Power, effective July 1, 1988. The State's lessee paid an annual rent of \$936 to the State through June 30, 1992.

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In 1995 staff contacted a representative of Smith River Power to discuss the payment of back rent. Staff was informed, at that time, that the transmission line had not been installed. Staff requested a letter from the lessee stating such; however, a letter was not received.

Staff contacted the Del Norte County Planning Department and was informed that the County never issued the final use permit. In addition, the proposed transmission line would cross lands belonging to the State Department of Transportation and Miwok Indian tribal lands. County staff indicated that Smith River Power had not been able to work out agreements with those entities.

On March 31, 1999, staff attempted to contact the lessee by telephone but was unsuccessful.

On June 15, 1999, staff, by letter, requested lessee sign and return a quitclaim deed releasing all right, title and interest in the leasehold back to the State of California. The quitclaim deed was not returned.

On September 30, 1999, lessee was sent a certified letter requesting lessee to sign and return the quitclaim deed within 15 days or the lease would be terminated for failure to comply with the insurance and bonding provisions as defined in the lease. To date, the applicant has not responded.

2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 21, Enforcement Actions by Regulatory Agencies; Title 14, California Code of Regulations, section 15321(a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

**EXHIBITS:**

- A. Land Description
- B. Location Map

**PERMIT STREAMLINING ACT DEADLINE:**

N/A

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**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 21, ENFORCEMENT ACTIONS BY REGULATORY AGENCIES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15321(a)(2).

**AUTHORIZATION:**

DECLARE LESSEE, SMITH RIVER POWER, IN BREACH OF LEASE NO. PRC 7215 FOR FAILURE TO PAY RENT, DURING THE LEASE TERM AND FAILURE TO COMPLY WITH THE INSURANCE AND BONDING PROVISIONS. AUTHORIZE STAFF TO NOTIFY LESSEE OF THE DECLARATION OF BREACH AND TO TAKE WHATEVER STEPS NECESSARY TO COLLECT BACK RENT, PENALTY AND INTEREST IF ANY; AND TERMINATE THE LEASE SHOULD LESSEE FAIL TO CURE THE DEFAULTS IN ACCORDANCE WITH THE TERMS OF THE LEASE.

EXHIBIT "A"

LAND DESCRIPTION

PRC 7215.1

A strip of tide and submerged land 100 feet wide in the bed of the Klamath River, Sections 14 and 15, T13N, R1E, HBM, Del Norte County, California; the easterly line of said strip being the westerly right of way line of U.S. Highway 101 and more particularly described as follows:

COMMENCING at the southerly terminous of the course numbered 18 in Parcel 1 of the deed to the State of California recorded November 10, 1964, in Book 104 of Official Records, Page 582, Del Norte County Records; thence along said course N 5°42'00" W, 250.00 feet; thence N 84°18'00" E, 191.07 feet to the TRUE POINT OF BEGINNING of said easterly line; thence along the following six courses:

1. N 3°06'09" E, 599.96 feet;
2. N 48°08'26" W, 343.56 feet;
3. N 1°58'14" E, 355.32 feet;
4. N 67°00'00" E, 179.00 feet;
5. N 23°00'00" W, 1600.00 feet;
6. N 55°49'19" W, 237.99 feet to the end of the herein described line.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water marks of the Klamath River.

This description is based on the California Coordinate System of 1927, Zone 1.

END OF DESCRIPTION

REVIEWED APRIL 22, 1988 BY BIU 1.

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SITE

EXHIBIT "B"  
PRC 7215.1

