

APPLICATION GUIDELINES

GENERAL INFORMATION AND APPLICATION MATERIALS REGARDING LEASING OF STATE LANDS

The State Lands Commission ("Commission") has jurisdiction and management control over those public trust lands of the State received by the State upon its admission to the United States in 1850 ("sovereign lands"). Generally these sovereign lands include all ungranted tidelands and submerged lands, beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. The Commission manages these sovereign lands for the benefit of all the people of the State, subject to the Public Trust for water related commerce, navigation, fisheries, recreation, open space and other recognized Public Trust uses. In addition the State manages lands received after Statehood including Swamp and Overflowed lands and School lands. The Commission's Land Management Division in Sacramento administers the leasing of these lands, sand and gravel extraction from these lands, and dredging or disposal of dredged material on these lands. The Commission also manages the development of all mineral resources contained on such lands.

Land Ownership Determination

Upon receipt of an application or an inquiry about use of State lands, the Commission's Title Unit reviews its files and information submitted by the applicant to determine the extent of the State's property interest in the proposed project site. In some cases, the complex nature of the title to the lands may result in the applicant having to submit a title report (preliminary report of title or title policy) as part of the application process.

Leasing Practices

The lands managed by the Commission vary widely in character and utility. The Commission maintains multiple-use management practices to assure that the greatest possible public benefit is derived from these lands. The Commission will consider numerous factors in determining whether or not a proposed use of the State's land is appropriate, including, but not limited to, the potential impacts on and the consistency with the Public Trust under which the Commission holds the State's sovereign lands, protection of natural resources and other environmental values, and preservation or enhancement of the public's access to State lands. Other factors that the Commission will also consider are the size, location, intended use, and described need for the project/structure/facility, its relationship to the surrounding environment and if the size of the project/structure/facility is appropriate for the location and type of use or operation proposed.

Applicants are advised that the Commission's standard lease provisions prohibit any structure that could be used as a residence or a floating residence. These types of structures may include, but are not limited to, a boat, barge, houseboat, trailer, cabin, enclosed patio, sunroom, office, sundeck, apartment, or any combination of such structures.

Applicants are advised that the Commission is under no obligation to approve any application submitted to it. The Commission may approve, condition, or deny any application, based upon the above referenced factors or other issues raised during the application review process.

California Environmental Quality Act (CEQA)

The issuance of any lease, permit or other entitlement for use of State lands by the Commission requires review for compliance with the California Environmental Quality Act (CEQA). The terms of CEQA may be found in the California Public Resources Code (PRC), Sections 21000 et seq., and in the State CEQA Guidelines, California Code of Regulations (CCR), Title 14, Sections 15000 et seq. No proposed project will be approved until the requirements of CEQA have been met.

Additionally, if the application involves lands found to contain "Significant Environmental Values" within the meaning of PRC Section 6370, consistency of the proposed use with the identified values must also be determined through the CEQA review process. Pursuant to its regulations, the Commission may not issue a lease for use of "Significant Lands" if such use is detrimental to the identified values.

Most leases, permits or other entitlements for use of State lands require approvals from other public agencies. On many proposed projects the Commission is the Lead Agency under CEQA (the public agency with the principal responsibility for carrying out or approving a project).

Where the Commission is the Lead Agency under CEQA, its initial step in reviewing an application is to determine whether the proposed project is exempt from CEQA. Exemptions from CEQA are either statutory or categorical. A listing of some exemptions may be found in the Commission's administrative regulations (CCR, Title 2, Section 2905) and others may be found in Title 14 of the California Code of Regulations. Categorical exemptions will not apply if there is a reasonable possibility that a proposed project will have a significant effect on the environment due to unusual circumstances, or if another exception applies.

If a proposed project is not exempt from CEQA, the staff of the Commission conducts an Initial Study to determine whether the proposed project may have a significant effect on the environment. The Initial Study is circulated to Responsible, Trustee, and interested public agencies and others who have expressed an interest in such documents of the Commission for review and comment. The circulation period is normally 30 days. Based upon the responses received and Commission staff analysis, a determination is made as to whether a Negative Declaration or an Environmental Impact Report is required.

A Negative Declaration ("ND") is the less complex of the two documents. Generally, the ND consists of the Initial Study accompanied by a recommendation by the Commission staff that the proposed project would not have a significant effect on the environment. If the ND contains mitigation measures that help ensure that the proposed project is not environmentally harmful, then it is considered to be a Mitigated ND (MND). The ND or MND is circulated for 30 days to appropriate agencies and interested persons. This review is provided through the State Clearinghouse. If no significant environmental effects are identified, the Commission considers the ND or MND together with any comments received, and either does or does not adopt the ND or MND, and then either approves or disapproves the proposed project.

An Environmental Impact Report ("EIR") is required in instances where responses to the Initial Study reflect concern that the proposed project may or will have a significant effect on the environment. In some cases it is clear without preparation of an Initial Study that a project

could have a significant effect on the environment. In such cases, the EIR process may begin without preparation of an Initial Study. Usually a third party consultant will be hired by the Commission to prepare the EIR.

In most instances, the preparation of an EIR takes from six to nine months. The Commission staff will prepare a Notice of Preparation that is circulated for 30 days, and will hold a scoping meeting during that time, to obtain specific detail about the scope and content of environmental information to include in the EIR. Later, a Draft EIR is circulated for 45 days to agencies and individuals concerned about the project. The State Clearinghouse provides for circulation to State agencies. During the 45-day review period, a public hearing may be held. Comments and recommendations received and significant environmental points raised in the review and consultation process are responded to in the Final EIR. This document is then circulated for an additional 15 days to those agencies and persons who commented on the Draft EIR. After the review period has ended, the Final EIR is presented to the Commission for certification, and the proposed project, including any recommended alterations or mitigation measures, is presented to the Commission for approval or disapproval.

The applicant will be required to cover the costs of preparation of the environmental documentation for the project. Experience has shown that ND/MND and EIR costs vary considerably, from several hundred to hundreds of thousands of dollars. The applicant must deposit an amount specified by the staff of the Commission within 21 days after Commission staff gives written notice of the anticipated costs of environmental processing, and will be required to execute a reimbursement agreement committing to full payment of the Commission's costs. (IMPORTANT: Please refer to Submittal of Fees below for more specific information regarding payment of Commission costs in processing your application.) If the cost for the preparation of a ND/MND or EIR exceeds the amount deposited, the amount of excess costs must be deposited within 15 days after written notice is given. Any unexpended portion of the deposit will be refunded to the applicant after the ND/MND or EIR is determined by the Commission to be adequate. Should the applicant fail to deposit the requested funds, the application may be canceled without further notice. Staff will not contact consultants regarding preparation of an EIR until required deposits and reimbursement agreements are received.

Where the Commission is a Responsible Agency as defined in CEQA (a permitting agency other than the Lead Agency), it must review the environmental documentation prepared by the Lead Agency, and comply with all applicable, substantive, and procedural requirements of CEQA.

Permit Streamlining Act: Time Constraints/Completeness of Application

Not later than 30 calendar days after the Commission receives an application for a development project, the staff will notify the applicant in writing whether the application is complete. Please see PART IV of the attached application form for the definition of "development project".

Staff of the Commission shall deem an application complete if:

1. The data submitted are sufficient to allow the staff of the Commission to locate and describe the nature and extent of State-owned land to be utilized in the project;
2. The applicant submits all deposits and fees required by the Commission (See Submittal of Fees below);
3. The applicant submits project specific information and environmental data sufficient for the Commission to determine the level and scope of environmental review required under CEQA and the State CEQA Guidelines (see Parts II and III);
4. The applicant submits data sufficient for the State to determine the fair rental to be paid the State for the applicant's use of the State's property; and
5. The data submitted by the applicant are sufficient to allow staff of the Commission to begin an analysis to determine if the application is: (a) consistent with Commission policies, practices and procedures; (b) conducive to public access; (c) consistent with environmental safeguards and policies of the State; and (d) otherwise in the best interests of the State.

In the event the application is determined not to be complete, the staff will specify what additional information is required. Upon receipt of any additional material, the staff will respond within 30 days as to whether the application is complete. Should the applicant fail to provide a complete application within a reasonable period of time, the file may be closed and all or any part of the fees retained by the Commission. Please see Notice on Page vii in the Application Instructions section. There is an appeal process whereby an applicant may appeal the determination of the staff that the application is incomplete. The adequate completion of Parts I through V of the Application for Lease of State Lands shall constitute a complete application.

After an application is found to be complete, the applicant may be required to submit additional information to clarify, amplify, correct, or otherwise supplement the information requested in the application form.

Under the Permit Streamlining Act, when the Commission is the Lead Agency for a development project and an EIR is prepared, the Commission must approve or disapprove the proposed project within 180 days from the date the EIR is certified. If a combined EIR/EIS (under CEQA and NEPA) is being prepared the Commission must approve or disapprove a development project within 90 days after the combined document is completed and approved. When an ND/MND is prepared or if the development project is exempt from CEQA the development project shall be approved or disapproved within 60 days from the date of adoption of the ND/MND or from the date the project is determined by the Commission to be exempt from CEQA.

When the Commission is acting as a Responsible Agency, the Commission must approve or disapprove the proposed project within 180 days after the Commission deems the application complete or 180 days after the Lead Agency approved the project, whichever is later.

The following are some of the circumstances that may cause the Commission to deny a project:

1. Failure of an applicant to furnish requested additional information;
2. Environmental considerations;
3. Failure to meet any statutory requirements;
4. Failure to submit requested additional fees;
5. Failure to conclude negotiations or to execute documents;
6. Inability of applicant to meet financial qualifications as deemed appropriate by the staff;
7. Misrepresentation by the applicant or its agent; or
8. Inconsistency with Public Trust Doctrine restrictions, resources, values, uses or needs
(For more information, please visit our website:
http://www.slc.ca.gov/Misc_Pages/Public_Trust.html
http://www.slc.ca.gov/Policy_Statements/Public_Trust_Home_Page.html).
9. The proposed activity, use, or project is determined not to be in the State's best interest.

This list should not be considered exhaustive.

Miscellaneous Information

The following concerns all applications:

An applicant acquires no property interest in State lands or the right to the use of State lands until the Commission has authorized a lease, permit, or other entitlement, and until the lease, permit, or other entitlement is complete in all respects and has been executed on behalf of the applicant and the State.

An application is not transferable; therefore, an agent should not submit an application without disclosing his or her status, authorization to act as agent, and the principal's identity; nor should an application be submitted with the intention of transferring the application or an interest in an application at a later date.

The preceding information is an outline of the general requirements and procedures applicable to all surface leasing developments. Prospective applicants wishing to obtain a lease, permit, or other entitlement for use of State lands should read and complete the attached application form and any attached parts that may be applicable and return it together with the data requested to the staff of the Commission for review and processing. Questions involving the surface leasing of State lands and the completed application form should be directed to:

**California State Lands Commission
Land Management Division
100 Howe Avenue, Suite 100 South
Sacramento, California 95825-8202
Telephone: (916) 574-1940**

Accommodations for the Deaf and Hearing Impaired

The State Lands Commission has available the services of the California Relay Service to provide telephone capabilities to deaf or hearing impaired persons. The telephone number of the California Relay Service is 1-800-735-2929 (TDD/TT). In addition, a sign language interpreter will be provided, upon reasonable advance notification of need by a deaf or hearing impaired individual.

APPLICATION INSTRUCTIONS FOR LEASE OF STATE LANDS

This application form has been developed in accordance with California Government Code Section 65940. The form has been designed to apply for a lease for a variety of surface use situations including commercial, industrial, right-of-way, and recreational uses. The form requires an applicant to fully describe its proposed use of State lands and consists of the following parts:

- Part I – General Data;
- Part II – Specific Project Information;
- Part III – Project Environmental Data;
- Part IV – Permit Streamlining Act; and
- Part V – Privacy Notice and Certification.

The information sought in this application form is required from the applicant, and the sufficiency of the information provided by the applicant will be the basis by which the staff will determine the completeness of the application as specified in Government Code Section 65940.

Government Code Section 65941.5 requires the State Lands Commission to notify its applicants of the public notice distribution requirements under applicable provisions of law relative to any proposed Commission action on applications for development projects. The notice distribution requirements are contained in Government Code Section 11125, and include, but are not limited to, notice to any person who requests that notice in writing and posting on the Internet at least 10 days in advance of the meeting.

When completing this application, please type or print clearly and submit it to the principal office of the Commission in Sacramento. Please answer all applicable questions and write "N.A." where questions do not apply. In addition, please submit any information believed important in support of the application. Applications for any use or entitlement of State lands, including but not limited to, applications for amendments, assignments, new leases for continuation of existing uses, or replacements of existing leases or permits, must be submitted on this form. Requests or inquiries not submitted on this form will not be considered applications and will be returned to the submitting party. (IMPORTANT: Submittal of the application form will NOT be considered an application unless accompanied by the Filing Fee and appropriate Minimum Expense Deposit set forth in Submittal of Fees below.)

CALIFORNIA PUBLIC RECORDS ACT

This application and all supporting information will become part of the official file and cannot be returned. The application and all supporting information may become a public record subject to disclosure to anyone who asks for it under the California Public Records Act (Government Code Section 6250 and following). Information considered confidential by the Applicant including, but not limited to, financial data, trade secrets, or other proprietary information may be withheld from public view if requested by the Applicant and allowed by law. This information should be clearly marked "CONFIDENTIAL" on each page.

The application information outlined on the following forms is necessary in order to process the application for use of State land. You have the right to review files maintained about your

project by the Commission, except as otherwise provided by law. The Commission Records Manager, State Lands Commission, 100 Howe Avenue, Suite 100 South, Sacramento, California, 95825, telephone (916) 574-1900, is responsible for maintenance of the information which is collected by the Commission.

NOTICE

If an application becomes inactive for a period of six months, the application will be terminated and all fees submitted with the application will be forfeited, subject only to the return of any unused deposit of processing fees. An application will be considered inactive if the applicant fails to provide requested information or indicate in writing why such information is not forthcoming for a period of ninety days following written request for such information by Commission staff.

PROCESSING COSTS

In addition to the costs of preparation of environmental documentation for the proposed project, the applicant is required to pay for all Commission staff costs and other costs and expenses for processing this application. The applicant shall deposit with the Commission the applicable Minimum Expense Deposit as set forth in Submittal of Fees below, and submit an executed reimbursement agreement to cover those costs. A reimbursement agreement form will be provided by Commission staff following review of the application and an estimate of anticipated Commission costs. If any reimbursement agreement(s) and any payment required under any reimbursement agreement(s), is (are) not received within 21 days of written request, the application may be canceled. Processing costs and environmental fees are calculated based on actual or estimated costs plus proportional overhead. If the deposit amount is less than those costs, the applicant will be required to submit additional costs within the allowable time period. If the deposit amount is more than these costs, the applicant will be refunded the difference.

Please note that if your application is ultimately approved by the Commission, you may also be charged other fees as provided by law, including, but not limited to environmental review fees charged by the California Department of Fish and Game, pursuant to Fish and Game Code Section 711.4.

Application Processing

It is the practice of the Commission to recover all costs for the processing of leases, permits, or other entitlements for the use of State land.

As soon as the application is accepted as complete, the staff will take all steps necessary, including but not limited to title work, land descriptions, appraisals, and environmental review to process the application. In some cases, the terms and conditions of a Commission lease, permit, or entitlement are subject to negotiation on a case-by-case basis based on relevant facts. Once the terms and conditions have been agreed to and the lease, permit, or entitlement has been executed by the applicant, staff will place the item on the agenda for consideration by the Commission at a regularly-scheduled meeting. Items to be considered by the Commission must be finalized at least one month prior to the scheduled meeting.

Submittal of Fees

Each applicant is required to pay the Commission's costs of processing the application. Each applicant, at the time of filing an application, shall submit a Filing Fee and the appropriate Minimum Expense Deposit for processing fees as set forth below. Each applicant will also be required to execute a reimbursement agreement to cover the total cost of processing the application (see below). The Minimum Expense Deposits listed below are based upon typical Commission costs in processing routine uncomplicated transactions, and may not cover the total cost of processing your application.

A. Filing Fee. *Same fee required of all applicants.* \$ 25.00

B. Minimum Expense Deposits for Processing Fees. *Use the chart below to determine the deposit required for this project.*

Transaction	Minimum Expense Deposit
(a) Commercial Lease (New)	\$17,500.00
(b) Industrial Lease (New)	\$25,000.00
(c) Right of Way	\$ 2,500.00
(d) Public Agency Lease/Permit	\$ 3,000.00
(e) Non-Commercial Lease	\$ 1,200.00
(f) Protective Structure	\$ 2,500.00
(g) Grazing or other Agricultural Lease	\$ 2,500.00
(h) Dredging Lease	\$ 1,500.00
(i) Consent to Encumber Leasehold	\$ 1,000.00
(j) Assignment not involving amendment of Lease	\$ 1,000.00
(k) Amendment of Lease to accommodate Lessee	\$ 2,000.00
(l) Sublease Approval	\$ 1,500.00
(m) Most other transactions not listed above	\$ 1,500.00

In addition to the above listed application processing fees, the Commission may require reimbursement of its costs in providing other services associated with processing applications for leases. These services include but are not limited to:

1. Processing environmental documents (See General Information enclosed with this application).
2. Review of environmental documents by the California Department of Fish and Game (See Fish and Game Code Section 711.4).
3. Advertising or public notification.
4. Duplicating or certifying papers.
5. Searching records or ordering title reports.
6. Processing archaeological, biological (including Tahoe Yellow Cress) or other necessary surveys.
7. Appraisals.

8. Monitoring compliance with environmental mitigation requirements of lease.
9. Lease management, including rent reviews, compliance with lease terms, etc.
10. Engineering Review.

Upon receipt of your application form and determination by staff of estimated costs to process your application, you will be provided a reimbursement agreement to assure recovery by the Commission of the total cost to process your application for the use of State land.

NOTE: The California State Lands Commission accepts MasterCard, Visa, and Novus/Discover Cards for payments including filing fees, application fees, rent, etc. If you wish to use this method of payment, please contact our Accounting Office at (916) 562-0026.

MISCELLANEOUS

The Commission encourages applicants to contact or meet with the Commission's staff prior to or after submitting an application to clarify the sufficiency of information needed to deem an application complete, in particular, information required in Parts II and III. This may streamline the application process by providing information to the staff in determining whether or not to recommend the project to the Commission.

The conduct of the Commission is governed by California Public Resources Code Sections 6000 et seq. and Title 2, Division 3, Sections 1900 et seq. of the California Code of Regulations. These provisions are included herein by reference.

DEFINITIONS

- 1) CCR: California Code of Regulations
- 2) CEQA: California Environmental Quality Act: Public Resources Code Sections 21000 et seq.
- 3) EIR: Environmental Impact Report
- 4) ND/MND: Negative Declaration/Mitigated Negative Declaration
- 5) PRC: Public Resources Code
- 6) "Proposed Project" shall include the construction, operation, and maintenance of a new facility, a change in an existing facility, or the continued use of State land for an existing facility for which Commission authorization has expired or never been granted.
- 7) "Water body" shall include the Pacific Ocean and any river, stream, slough, lake, bay, estuary, inlet, or strait.