

5. APPLICATION FOR DREDGING PERMIT, SUBMERGED LANDS, SAN FRANCISCO BAY, CITY AND COUNTY OF SAN FRANCISCO, MARIN COUNTY; SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT - W.O. 5546, P.R.C. 3417.9.

The Executive Officer noted for the record that since preparation of Calendar Item 20 attached, a formal protest had been filed with the Commission by Construction Aggregates Corporation; also, the Department of Fish and Game reported a desire to comment on and request an opportunity to review the application.

Mr. L. A. Kimball, Assistant General Manager of the San Francisco Bay Area Rapid Transit District, introduced Mr. Wallace Kaapcke, General Counsel for the District, who outlined the steps that had been taken by the District and reviewed discussions that had been held with representatives of Construction Aggregates the previous day and from which an accord had resulted. Mr. Kimball then stated that "if it were the Commission's desire to restrict us to the area on Southampton Shoals and Angel Island and Fort Knox, this would be in accordance with our needs, and is satisfactory."

Mr. Justin Jacobs, with the firm of McEnerney and Jacobs, appeared with Mr. John E. Porter, District Manager, on behalf of Construction Aggregates Corporation, to call attention to State's Lease P.R.C. 709.1, issued in 1952, which lease that company holds, and indicated a need for interpretation of the rights of the State and of Construction Aggregates under the terms of that lease.

Following further discussion, Mr. John E. Porter, on behalf of Construction Aggregates Corporation, agreed not to object to the dredging permit, and waived any interest in or to any sand necessary for the tube, with the understanding that by so doing, Construction Aggregates would not jeopardize its rights under State Lease P.R.C. 709.1, and with the further understanding that the staff of the State Lands Commission would sit down with representatives of Construction Aggregates and clarify the interpretation of the lease provisions.

Mr. Willis Evans, Fisheries Supervisor for Region III in San Francisco of the Department of Fish and Game, called attention to two factors with which that Department is primarily concerned: (1) The depositing of spoil materials in San Francisco Bay in those shoal areas affected by the tidal prism, as this has direct effects on fish and wildlife resources, and they therefore want to view very carefully any disposal in those areas; (2) The matter of possible turbidity of the water during the dredging operations, which it was felt could be worked out in an amiable manner by merely examining the operation and disposal areas periodically.

UPON MOTION DULY MADE AND CARRIED UNANIMOUSLY, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION AUTHORIZES THE EXECUTIVE OFFICER, SUBJECT TO THE APPROVAL OF THE SAN FRANCISCO PORT AUTHORITY FOR DREDGING FROM AND PLACEMENT OF FILL MATERIAL ON PROPERTY UNDER THE JURISDICTION OF THE PORT AUTHORITY, AND SUBJECT TO A WRITTEN WAIVER OF ITS RIGHTS UNDER STATE LEASE P.R.C. 709.1 BY CONSTRUCTION AGGREGATES CORPORATION FOR SUCH MATERIAL DREDGING,

1. TO ISSUE TO THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT A PERMIT TO DREDGE 4,000,000 CUBIC YARDS OF MATERIAL TO FORM A TRENCH FOR THE PORTION OF THE TRANS-BAY TUBE LYING WITHIN THE CITY AND COUNTY OF SAN FRANCISCO, THE DREDGED MATERIAL TO BE PLACED IN PUBLIC DISPOSAL AREAS WITHIN THE CONFINES OF SAN FRANCISCO BAY; AND
2. TO ISSUE TO THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT A PERMIT TO REMOVE MATERIAL FROM PRESIDIO - ALCATRAZ ISLAND SHOALS, ANGEL ISLAND SHOAL AND SOUTHAMPTON SHOAL IN AN AMOUNT AND IN A MANNER THAT WILL NOT INTERFERE WITH EXTRACTION OPERATIONS OF EXISTING LESSEES. THE AMOUNT REMOVED FROM RESPECTIVE SHOAL AREAS SHALL NOT EXCEED 1,000,000 CUBIC YARDS FROM PRESIDIO - ALCATRAZ ISLAND SHOALS; 2,000,000 CUBIC YARDS FROM THE ANGEL ISLAND SHOAL; 1,000,000 CUBIC YARDS FROM SOUTHAMPTON SHOAL.

IT IS UNDERSTOOD THAT THE STAFF OF THE STATE LANDS COMMISSION IS TO OBTAIN A LEGAL CLARIFICATION FROM THE OFFICE OF THE ATTORNEY GENERAL, ON BEHALF OF CONSTRUCTION AGGREGATES CORPORATION, AS TO THE RIGHTS OF THAT CORPORATION UNDER STATE LEASE P.R.C. 709.1, ISSUED IN 1952. IT IS FURTHER UNDERSTOOD THAT, IN WAIVING ITS RIGHTS IN THE INSTANT CASE, CONSTRUCTION AGGREGATES CORPORATION WILL NOT JEOPARDIZE ANY RIGHTS IT HOLDS UNDER LEASE P.R.C. 709, AND THAT THE STAFF OF THE STATE LANDS COMMISSION WILL ARRANGE A CONFERENCE WITH REPRESENTATIVES OF CONSTRUCTION AGGREGATES CORPORATION FOR THE SPECIFIC PURPOSE OF CLARIFYING THE RIGHTS OF THE CORPORATION UNDER LEASE P.R.C. 709.1.

Attachment

Calendar Item 20 (2 pages)

APPLICATION FOR DREDGING PERMIT, SUBMERGED LANDS, SAN FRANCISCO BAY, CITY AND COUNTY OF SAN FRANCISCO, MARIN COUNTY; SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT - W.O. 5546.

An application has been received from the San Francisco Bay Area Rapid Transit District for authorization to dredge 4,000,000 cubic yards of material to form a trench for that portion of the proposed Trans-Bay Tube lying within the City and County of San Francisco. The dredged material will be disposed of within the confines of San Francisco Bay.

The Transit District has also applied for a permit to dredge material from Presidio, Alcatraz Island, Angel Island, and Southampton Shoals, lying in San Francisco Bay, San Francisco and Marin Counties. The dredged material will be used as backfill within the trench dredged for the Trans-Bay Tube (see Exhibits "A" and "B" attached), so as to provide a protective cover and blanket for this tube. The material will be deposited over the tube for its entire length between the San Francisco Ventilation Building and the shore line at the Oakland Mole, and will also be used to construct confining dikes within the two disposal areas. It is proposed to remove 1,000,000 cubic yards of material from Presidio Shoal - Alcatraz Island Area, 2,000,000 cubic yards from the Angel Island Area, and 1,000,000 cubic yards from Southampton Shoal. Portions of the above shoal areas are included in nonexclusive mineral extraction leases that have been issued by State Lands Commission.

The office of the Attorney General has advised that in the area included within a nonexclusive lease, the Commission may grant a subsequent right to remove material, provided that the removal would not interfere or be inconsistent with the extraction operations of the existing lessees, if the amount of sand removed by the subsequent lessee will not deplete the supply on the shoal area and so interfere with the existing leases as to render them useless, and that such operations could be conducted in the same area without liability accruing to the State.

Section 6303 of the Public Resources Code states in part that when a permittee has a permit from the Federal Government to dredge tide or submerged lands for the improvement of navigation or reclamation, the Commission may, when in the best interests of the State, allow such permittee to have spoils dredged from the sovereign lands upon such terms and conditions and for such consideration as will be in the best interests of the State.

The Department of Fish and Game and the Division of Beaches and Parks have been informed of the proposed operation.

The Rapid Transit District has submitted applications to the U. S. Army Corps of Engineers for permits authorizing the conduct of dredging and disposal operations in the above locations.

CALENDAR ITEM 20. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER, SUBJECT TO THE APPROVAL OF THE SAN FRANCISCO PORT AUTHORITY FOR DREDGING FROM AND PLACEMENT OF FILL MATERIAL ON PROPERTY UNDER THE JURISDICTION OF THE PORT AUTHORITY,

1. ISSUE TO THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT A PERMIT TO DREDGE 4,000,000 CUBIC YARDS OF MATERIAL TO FORM A TRENCH FOR THE PORTION OF THE TRANS-BAY TUBE LYING WITHIN THE CITY AND COUNTY OF SAN FRANCISCO, THE DREDGED MATERIAL TO BE PLACED IN PUBLIC DISPOSAL AREAS WITHIN THE CONFINES OF SAN FRANCISCO BAY; AND
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