

MINUTE ITEM

8/31/72
CRK

14. ADOPTION OF RULES AND REGULATIONS RELATING TO LEASES, CONTRACTS AND OTHER INSTRUMENTS INVOLVING GRANTED TIDE AND SUBMERGED LANDS - W 5125.6.

After consideration of Calendar Item 12 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION ADOPTS RULES AND REGULATIONS, AS SET OUT IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, RELATING TO LEASES INVOLVING GRANTED TIDE AND SUBMERGED LANDS, AND AUTHORIZES COMPLIANCE WITH ALL STATUTES AS NECESSARY TO MAKE SAID RULES EFFECTIVE, INCLUDING FILING THEREOF WITH THE SECRETARY OF STATE.

Attachment:

Calendar Item 12 (4 pages)

12.

ADOPTION OF RULES AND REGULATIONS
RELATING TO LEASES, CONTRACTS AND OTHER INSTRUMENTS
INVOLVING GRANTED TIDE AND SUBMERGED LANDS

On May 16, 1972, a hearing was held at 1600 "L" Street, Sacramento, California, pursuant to authorization by the Commission and duly published notice to receive written statements or arguments regarding the proposed adoption of rules and regulations relating to leases of granted tide and submerged lands as described in Section 6701-06 of the Public Resources Code. As a result, written statements and recommendations for changes were received from representatives of various grantees. The material was analyzed and the proposed rules were revised, though not substantially.

A second notice embodying the revised proposal was published to provide for the receipt of further written statements or arguments on July 31; none were received.

All the procedures required by Article 4 of the Administrative Procedure Act have been completed.

EXHIBIT: A. Title 2, Division 3, Article 9, Sections 9000-9700, California Administrative Code.

IT IS RECOMMENDED THAT THE COMMISSION ADOPT RULES AND REGULATIONS, AS SET OUT IN EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, RELATING TO LEASES INVOLVING GRANTED TIDE AND SUBMERGED LANDS AND AUTHORIZE COMPLIANCE WITH ALL STATUTES AS NECESSARY TO MAKE SAID RULES EFFECTIVE, INCLUDING FILING THEREOF WITH THE SECRETARY OF STATE.

Attachment: Exhibit "A"

ARTICLE 9

LEASE INVOLVING GRANTED TIDE AND SUBMERGED LANDS

9000. PROCEDURES

The provisions of this Article are not mandatory or otherwise applicable to each and every lease, contract or other instrument issued by a grantee. These rules and regulations apply only when a grantee, lessee, lender for value, or holder of a contract involving tide and submerged lands requests that the State Lands Commission make the determinations outlined in Sec. 6702(b)(1) of the Public Resources Code.

9100. TIME LIMITATION

When an application and the grantee's report, both complete in all respects, are received in the State Lands Division, they will be acknowledged and the ninety-day period prescribed by Section 6704 of the Public Resources Code shall commence to run. If either the application or report is incomplete, the applicant or grantee will be informed of the additional material required and the ninety-day period will not begin until all such material is received and acknowledged.

9200. APPLICATION

(a) The person or entity desiring action by the Commission shall submit an application in letter form to the State Lands Division at Sacramento and it shall include the following:

(1) Name and address of the applicant. If the applicant is not the lessee, state the lessee's name and address.

(2) If the lessee is a corporation, include or attach:

- a. The name of the president and secretary.
- b. A certificate of incorporation issued by the Secretary of State of the State of incorporation.
- c. If not a California corporation, a certificate from the Secretary of State of the State of California showing qualification of the applicant to transact business in California.
- d. A notarized copy, bearing the corporate seal, of the Resolution by the Board of Directors of the applicant, indicating the names of the officers authorized to execute documents.

(3) The minimum expense fee of \$500.00 (See Article 9500).

(4) A statement of the present and proposed use of the granted tide and submerged lands affected by the lease, contract or other instrument to include the following:

- a. Description of existing structures or land improvements on the land, and current use.

b. Construction proposed by the lessee, to include new structures, land improvements and dredging, or alterations to existing improvements, and costs.

c. Beginning and completion dates for proposed construction, prospecting, mining, dredging, etc.

d. Plans or sketch showing location of existing structures, proposed construction, dredging, deposit areas for spoil, etc. Detailed working drawings are not desired.

(5) Show the location and boundaries of the project on an 8½ x 11" portion of a USGS Topographic quadrangle map, or other map showing equivalent detail.

(b) In addition to the foregoing, the following reports, documents, and papers shall be appended to the application and form a part thereof:

(1) The lease, contract, or other instrument.

(2) An environmental impact statement prepared according to current requirements of the State Lands Division, or a copy of environmental report prepared for any other governmental agency required to approve the project. A copy of Division requirements may be secured by contacting the office of the State Lands Division.

(3) An affidavit attesting to the authenticity and accuracy of the application and its appendages.

9300. GRANTEE'S REPORT

The Commission will not favorably consider and will have cause to reject any application that is not supplemented by a report from the affected legislative grantee. This report shall be sent separately and direct to the State Lands Division and it shall include or be accompanied by the following:

(a) An original document, or other evidence, authorized by and executed on behalf of the legislative grantee, embodying a covenant that the proceeds of the lease, contract, or other instrument shall be deposited in a trust fund or funds and expended only for statewide purposes as authorized by the granting statute.

(b) One copy of any appraisal report, feasibility study, cost/benefit analysis, or other report that was the basis for determination of the consideration.

(c) A statement as to whether or not such lease, contract, or other instrument is considered to be in the best interests of the State, with detailed reasoning.

(d) Those portions of any plan adopted pursuant to Title 7 of the Government Code which affect or apply to the leased area.

(e) A statement by the legislative grantee describing how the lease will affect and fit in with over-all plans (including plans adopted pursuant to Title 7 of the Government Code) for development of a. granted land, b. the project area, and c. the general vicinity.

In lieu of subsections (b) through (e) above the grantee may file with the State Lands Division a copy of its policies and procedures regarding leasing of granted lands. A signed statement that the application is consistent with and fully adheres to the submitted guidelines will be accepted in place of said subsections (b) through (e).

9400. SUBMISSION OF LEASE CONTRACT OR OTHER INSTRUMENT

The document shall be consummated and executed by all parties when submitted to the State Lands Commission for the determinations set forth in Section 6702(b) of the Public Resources Code.

9500. EXPENSES

The expense fee of \$500.00 required by Section 9200(a)(3) is the minimum necessary to reimburse the State for the costs to study, investigate and process a typical uncomplicated application under this Article. If the amount proves to be insufficient due to unusual complexity of the transaction, or for other purposes necessary to meet the time limitation, additional funds will be requested. If the funds are not received within twenty-one (21) days, the Commission will decline to issue a report and will cite such nonreceipt as adequate reason.

9600. CRITERIA FOR COMMISSION ACTION

In processing a lease, contract or other instrument pursuant to this Article, the criteria for making the determinations outlined in Section 6702(b) of the Public Resources Code will include but not be limited to a consideration of the Commission's current policies, practices and procedures in administering laws relating to lands under its jurisdiction.

Prospective parties to a lease or other transaction requiring action by the Commission are therefore urged to obtain this information from the State Lands Division prior to concluding their negotiations.

9700. MODIFICATION OR AMENDMENT TO A LEASE, CONTRACT OR OTHER INSTRUMENT

Approval by the State Lands Commission of any lease, contract or other instrument pursuant to Sections 6701, et seq. of the Public Resources Code does not constitute approval of any modification or amendment thereto, whether or not such modification or amendment is made pursuant to provisions of a lease, contract or instrument. Further approval by the State Lands Commission of any such modification or amendment will be necessary in order for the provisions of Sections 6701, et seq. of the Public Resources Code to be applicable to such modified or amended lease."