MINUTE ITEM

This Calendar Item No. 35. was approved as Minute Item No. 35 by the State Lands Commission by a vote of 2 to 0 at its 8-23-79 meeting.

CALENDAR ITEM
35.

8/79
G08-03.2
Rasmussen

PROGRESS REPORT ON THE MOSS LANDING HARBOR DISTRICT'S COMPLIANCE WITH THE RECOMMENDATIONS OF THE 1978 MANAGEMENT PRACTICES AUDIT

TRUSTEE: Moss Landing Harbor District
P. O. Box 102
Moss Landing, California 95039

LOCATION: Granted tide and submerged lands at Moss Landing, County of Monterey.

PURPOSE: Progress report on the District's compliance with the recommendations of the 1978 Manangement Practices Audit as required by the Commission action of July 19, 1978.

BACKGROUND: Chapter 1190 of the Statutes of 1947 and Chapter 131 of the Statutes of 1967 granted certain tide and submerged lands at Moss Landing in Monterey County to the Moss Landing Harbor District. The grant was made for harbor purposes and for the promotion and accommodation of commerce and navigation.

Responding to charges from a member of the Moss Landing Harbor District constituency about alleged deficiencies in the District's management of granted tide and submerged lands, Commission staff undertook an audit of the administrative and financial practices of the District. The purpose of this management practices audit was to determine whether or not there had been substantial failure on the part of the District to comply with the terms of its granting statutes and/or with the conditions of the tidelands trust as found in the common law, herein referred to as the common law trust.

The audit concluded that substantial violations of Chapter 1190 of the Statutes of 1967 and of the common law trust implicit in such grants had indeed occurred.

A 28

S 17

The State Lands Commission at its regular meeting on July 19, 1978 notified the District of the findings of the audit. At this time, the Commission also gave the District one year to bring their administration of the tidelands into compliance with the granting statutes and the common law trust or to submit a progress report regarding the measures taken to achieve this end.

REPORT OF PROGRESS:

Commission staff along with staff of the Attorney General's Office have worked closely with the District to resolve the problems discussed in the audit.

In North Harbor, the District has been faithfully negotiating with the Elkhorn Yacht Club for a lease which would bring the operation of North Harbor by the Club into compliance with the audit. On June 27, 1979, the Club notified the District that it would soon be paying the final bond obligation it entered into many years ago to construct and develop the facilities at North Harbor. Under the terms of the 1952 operating agreement, the Club has the option upon final bond payment to lease the facilities from the District rather than manage them itself. As is also stated in their June 27 letter, the Club has elected to end its role as manager of North Harbor. They anticipate turning over management of North Harbor to the District by the end of the year. At its July 17, 1979 meeting, the District resolved to place energy and expertise at the disposal of the Club to assist in dissolution of the operating agreement and thereby return responsibility for operation and maintenance of North Harbor to the District. With this action, the problems of North Harbor will be corrected. The District is aware of its trust obligations and is well qualified to manage and administer the tidelands in North Harbor.

Problems relating to the administration of South Harbor facilities and lands have been clarified by the completion of the Commission survey delineating the Moss Landing Harbor District boundary administration line. The in-depth study of historical and title data in cooperation with the Attorney General's Office is continuing and this, along with the survey, will provide the basis for the District to charge rentals in the South Harbor area where and when appropriate. When this task is complete and appropriate lease agreements are in effect, the problems in South Harbor enumerated by the audit will be substantially corrected.

The District has been very cooperative in its efforts to correct the deficiencies discussed in the audit. It is only because they have worked so effectively and diligently in this regard that they have been so successful towards resolving those problems.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT MOSS LANDING HARBOR DISTRICT HAS PROGRESSED SATISFACTORILY WITH REGARDS TO THE COMMISSION FINDINGS OF JULY 19, 1978 TO TAKE STEPS TO BRING ITS ADMINISTRATION OF THE LANDS GRANTED TO IT INTO COMPLIANCE WITH THE TERMS OF THE GRANTING STATUTES AND THE COMMON LAW TRUST AS ENUMERATED IN THE MANAGEMENT PRACTICES AUDIT CONDUCTED BY STAFF.

2. NOTIFY MOSS LANDING HARBOR DISTRICT THAT THE COMMISSION HAS FOUND THAT THE DISTRICT HAS MADE SATISFACTORY PROGRESS TOWARDS BRINGING THE ADMINISTRATION OF THE LANDS GRANTED TO IT INTO COMPLIANCE WITH THE TERMS OF THE GRANTING STATUTES AND THE COMMON LAW TRUST AS ENUMERATED IN THE MANAGEMENT PRACTICES AUDIT CONDUCTED BY STAFF.

3. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE STEPS NECESSARY TO ENSURE THAT COMPLIANCE BY THE DISTRICT WITH THE AUDIT FINDINGS AND RECOMMENDATIONS IS COMPLETED.