

MINUTE ITEM

This Calendar Item No. C5
was approved as Minute Item
No. 5 by the State Lands
Commission by a vote of 2
to 0 at its 8-26-80
meeting.

CALENDAR ITEM

C5.

8/80
W 503.357
Graham
PRC 5879

GENERAL PERMIT - PUBLIC AGENCY USE

APPLICANT: State Department of Fish and Game

AREA, TYPE LAND AND LOCATION:
All those lands owned by the State of
California, in the beds of Lake Earl and
Lake Talawa, Del Norte County.

LAND USE: Preservation of wildlife habitat.

TERMS OF PROPOSED PERMIT:
Initial period: 49 years from September 1,
1980.

CONSIDERATION: The public use and benefit with the State
reserving the right at any time to set
a monetary rental if the Commission finds
such action to be in the State's best interest.

PREREQUISITE TERMS, FEES AND EXPENSES:
Applicant is owner of upland.

Processing costs have been received.

STATUTORY AND OTHER REFERENCES:
A. P.R.C.: Div. 6, Parts 1 & 2.
B. Cal. Adm. Code: Title 2, Div. 3.

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OTHER PERTINENT INFORMATION:

1. In 1960 litigation was commenced against the State by certain plaintiffs seeking to quiet their title to land in Del Norte County which, in essence, comprised the beds of 2 coastal lakes, Lakes Earl and Talawa. The litigation was not pursued on an active basis by plaintiffs. A substitution of plaintiffs was undertaken and Loren C. Bliss et al. ("Bliss"), became the named plaintiff. Again the litigation was not actively pursued.

The essential contentions of Bliss were that Lakes Earl and Talawa were sold as swamp and overflowed lands by the State; that the lakes were patented to the State as swamp and overflowed by the United States; and by operation of P.R.C. Section 7552, the State's interest in the beds of Lakes Earl and Talawa was terminated. Other contentions were made as well concerning the ability of the State to now assert any claims of ownership to those lakes. On the other hand, the State's position, in brief, has been that no authority ever existed to sell the submerged beds of Lake Earl and Talawa; that the State is not precluded from asserting this claim; and that the State owns the beds of Lakes Earl and Talawa as sovereign lands of the State.

2. Since about 1974, the California Department of Parks and Recreation and the Wildlife Conservation Board have been interested in acquiring the upland holdings of Bliss which surround Lakes Earl and Talawa. These upland holdings contain approximately 7 miles of coastline now held in private ownership. The purpose of the acquisition is the preservation of valuable wetland and coastal dune habitat, cultural and

ecological resources, and the provision of compatible outdoor recreational and educational opportunities. Authorization to acquire these holdings was obtained, and, since 1977, negotiations were undertaken with Bliss to acquire Bliss' holdings contiguous to Lakes Earl and Talawa. Those negotiations were recently concluded and Bliss' holdings were acquired for just over \$5,000,000. Lakes Earl and Talawa are an integral part of the acquisition, comprising a substantial recreational, ecological, and educational resource.

3. Because of the then pending title litigation evidencing the conflicting title assertions of the State and Bliss to Lakes Earl and Talawa, the lakes were excluded from the scope of the acquisition. To accomplish the purpose of the acquisition in a manner that would result in the State and Bliss clarifying their title interests in Lakes Earl and Talawa was the subject of considerable negotiation. Such negotiations resulted in a compromise of the litigation, subject to the approval of the Commission.

In essence the compromise provided that in consideration of the State releasing its interest in Lakes Earl and Talawa, Bliss will donate Lakes Earl and Talawa to the State to be held as State sovereign lands. The compromise was accomplished by a Settlement Agreement between Bliss and the Commission and a Donation Agreement between Bliss and the California Parks Foundation ("Foundation"). The Donation Agreement accomplished the donation of the lakes to the State by the concurrent execution of quitclaims of the lakes from Bliss to the Foundation and from the Foundation to the State.

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As a condition of the Donation, the lakes were conveyed to the State as sovereign lands subject to all the constitutional protections of tidelands. The State's release provided in the Settlement Agreement was effective upon the execution and delivery of the deed from the Foundation to the State. The result of the settlement was to receive what the State has claimed and would have obtained had the litigation been concluded entirely favorably to the State - the beds of Lakes Earl and Talawa in fee as sovereign lands of the State subject to the constitutional protections of tidelands.

4. The State Lands Commission, at its August 1979 meeting, approved the settlement and authorized the Executive Officer to execute on behalf of the Commission.
5. In order to accomplish the goal of preserving the valuable wetlands, the Department of Fish and Game wishes to obtain the necessary permit covering the submerged portions of Lake Earl and Lake Talawa.
6. The annual rental value of the site is estimated to be \$240,000.
7. An EIR is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907, Class 7.(A), which exempts permits to public agencies for wildlife preservation activities.
8. This project is situated on State land identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and is classified in a use category, Class A, which authorizes Restricted Use.

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9. Staff has coordinated this project with those agencies and organizations which nominated the site as containing significant environmental values. They have found this project to be compatible with their nomination.

APPROVALS OBTAINED:

North Coast Region of the Coastal Commission,
Department of Parks and Recreation.

EXHIBIT: A. Land Description. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH A REPORT IS NOT REQUIRED UNDER THE P.R.C. 21084, 14 CAL. ADM. CODE 15107 AND 2 CAL. ADM. CODE 2907 CLASS 7(A).
2. DETERMINE THAT THIS PROJECT IS EXEMPT FROM THE REQUIREMENTS OF ARTICLE 6.5, OF TITLE 2, OF THE CAL. ADM. CODE BECAUSE THIS PROJECT IS NOT A DEVELOPMENT WITHIN THE MEANING OF SECTION 2503, OF TITLE 2, OF THE CAL. ADM. CODE AND SECTION 30105 OF THE P.R.C.
3. FIND THAT GRANTING OF THE PERMIT WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE P.R.C.
4. AUTHORIZE ISSUANCE TO THE STATE DEPARTMENT OF FISH AND GAME OF A 49-YEAR GENERAL PERMIT - PUBLIC AGENCY USE FROM SEPTEMBER 1, 1980; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST FOR PRESERVATION OF A WILDLIFE HABITAT ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT "A"

LAND DESCRIPTION

W 503.357

The beds of Lake Earl and Lake Talawa, said Lake beds situate in protracted Sections 3, 4, 5, 8 and 9, T16N, R1W, HM, Del Norte County, California.

END OF DESCRIPTION

PREPARED AUGUST 14, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK,
SUPERVISOR.

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