

MINUTE ITEM

Calendar Item No. 41
Approved as Minute Item
by the State Lands
Commission by a vote of 2
at its 6/26/85
meeting.

MINUTE ITEM

41

06/26/85
PRC 6697
Valentine
Stevenson

REQUEST FOR REITERATION OF EARLIER COMMISSION
ACTION LIMITING PRC 6697 TO MAINTENANCE OF EXISTING
RIP-RAP ON LEVEES; THE RECLAMATION BOARD,
SACRAMENTO RIVER; COLLINSVILLE TO CHICO LANDING

During consideration of Calendar Item 41, attached, Executive Officer Dedrick submitted for the record a recent memorandum from the State Reclamation Board which outlines their contention that the Board had received a permit allowing for the placement of new rip-rap. Other documents which were filed in the case entitled State of California ex rel. State Lands Commission v. U.S.A., et al. (U. S. District Court, Eastern District of California, Case No. Civ 85-658-EJG) were also made a part of the record of Commission action.

The Resolution in Calendar Item 41 was approved as presented by a vote of 2-0.

Attachment: Calendar Item 41.

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EXISTING RIP-RAP ON LEVEES; THE RECLAMATION BOARD,
SACRAMENTO RIVER; COLLINSVILLE TO CHICO LANDING

At its June 21, 1984, meeting, the Commission authorized its staff to enter into a lease with the Reclamation Board. The lease as authorized permitted the Reclamation Board to use the sovereign land within and along the Sacramento River from Collinsville (Solano County) to Chico Landing (Butte County) for a single purpose, the maintenance of existing rip-rap within the established River levee system.

The Commission found that the proposed project met the conditions and criteria of two categorical exemptions under the CEQA: 1) Maintenance of Existing Structures (Class 1, 14 Cal. Adm. Code 15301), and 2) Rebuilding or repair of levees (Class 4, 2 Cal. Adm. Code 2905(d)(2)). Prior to its application to the Commission, the Reclamation Board had not prepared any environmental documentation or analysis for the project.

Subsequent to the June 1984 action by the Commission, a proposed lease was signed by the Commission's staff (lease PRC 6697). The lease when signed contained interlineations by the Reclamation Board. The staff member signing for this Commission believed in good faith that the interlined language was consistent with the original language of the permit and the Commission's authorization. The Reclamation Board has chosen a different and opposing interpretation.

The Reclamation Board has taken the position that the lease, as authorized and signed, permits the placement of new rip-rap, where none had previously existed. The staff of this Commission has consistently disputed that assertion, explaining

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that the calendar item authorizing the lease was abundantly clear regarding the use of sovereign property and that this Commission could not have allowed new rip-rap placement while invoking the previously cited CEQA exemptions for the maintenance of an existing structure and repair to levees.

Despite the position of the State Lands Commission, the Reclamation Board sent a letter of assurance to the Corps of Engineers stating that the Board held all interests in land necessary to perform the new bank rip-rap as part of the Sacramento River Bank protection project. The Commission then sought injunctive relief in Federal District Court to enjoin this project until an appropriate permit was obtained by the Board from the Commission. That injunction was denied by Judge Garcia. During the hearing he inquired whether the State Lands Commission had taken any formal position relative to the Board's interpretation of the Commission permit.

The staff has brought this calendar item in order to reiterate the Commission's authorization of June 21, 1984 for Lease PRC 6697.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884: N/A.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT LEASE PRC 6697 PERMITS THE USE OF SOVEREIGN STATE PROPERTY SOLELY FOR THE PURPOSE OF THE MAINTENANCE OF EXISTING RIP-RAP IN PLACE ON EXISTING SACRAMENTO RIVER LEVEES BETWEEN COLLINSVILLE AND CHICO LANDING AND THAT A SECOND LEASE OR AN AMENDMENT TO LEASE PRC 6697 IS REQUIRED FOR THE RECLAMATION BOARD TO PERFORM ANY ACTIVITY ON THE LEASED PROPERTY OTHER THAN THE MAINTENANCE OF IN PLACE OF RIP-RAP ON SUCH LEVEES. SOME EXAMPLES OF WORK REQUIRING A SECOND LEASE OR AN AMENDMENT TO PRC 6697 INCLUDE, BUT ARE NOT LIMITED TO: 1. THE PREPARATION OF RIVER BANKS TO RECEIVE RIP-RAP; 2. THE PLACEMENT OF RIP-RAP ON THE RIVER'S BANKS; AND THE PLACEMENT OF NEW RIP-RAP ON RIVER LEVEES.

CALENDAR ITEM NO. 41 (CONT'D)

2. AUTHORIZE THE STAFF TO TRANSMIT TO THE RECLAMATION BOARD, FOR SIGNATURE, A COPY OF LEASE PRC 6697 IN A FORM CONSONANT WITH THIS COMMISSION'S JUNE 21, 1984, AUTHORIZATION REITERATED BY THIS ITEM.

(ADDED 06/26/85)

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