

MINUTE ITEM

This Calendar Item No. 49
was approved as Minute Item
No. 49 by the State Lands
Commission by a vote of 3
to 0 at its 08/30/89
meeting.

CALENDAR ITEM

49

A)
S) Statewide

08/30/89
W 21809
W 5125.4
Horn
Pelkofer

APPROVAL OF MODIFICATION TO APPLICATION LISTS
AND CRITERIA (SURFACE LEASING)
(SHIPWRECK SALVAGE PERMITS)
(RECREATIONAL PIER PERMITS)

The Commission has previously adopted (Item 12, April 27, 1978) application lists and criteria for projects and permits requiring Commission approval pursuant to Government Code Sections 65920, et seq. (Permit Streamlining Act).

Staff has revised the existing general application form and the lists and criteria for applications to reflect changes of law and the current policy and practices of the Commission. The forms have been revised to: a) include a description of the general application procedure of the Commission, b) detail the environmental process under CEQA, c) combine existing data gathering forms into one new comprehensive form, and d) provide additional information about the legal basis for the rejection of an application or the determination that it is not complete.

AB 884: N/A

OTHER PERTINENT INFORMATION:

1. The existing RPP application also serves as the permit after State Lands Commission approval. In the revised process, the RPP applicant would make application on the General Surface application. Permit will be modified accordingly.

CALENDAR ITEM No. 49 (CONT'D)

MINUTE ITEM
The Calendar item No. 49
was approved by the State
to enjoy the same status
as all to the Commission

2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines, the staff has determined that the modification of application lists and criteria is an activity which is exempt from the requirements of CEQA because it is not a project.

Authority: P.R.C. 21065 and 14 C.C.R. 15378.

Notice of this action for the purposes of State Administrative Manual Section 1082 is satisfied by the notice process for this Commission hearing.

EXHIBITS:

- A. General Information and Application Materials - Surface Leasing of State Lands.
- B. General Application Guidelines - Marine Salvage Permits.
- C. General Application Requirements - Recreational Pier Permits.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE IT IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. DETERMINE THAT THE NOTICE PROVISION OF THE STATE ADMINISTRATIVE MANUAL SECTION 1082 HAVE BEEN MET.
3. ADOPT THE MODIFICATION OF THE FORMS PREPARED BY STAFF AS SET FORTH IN THIS ITEM AND AUTHORIZE THE STAFF TO TRANSMIT THEM TO THE STATE OFFICE OF PLANNING AND RESEARCH.
4. AUTHORIZE THE STAFF TO TAKE ANY OTHER ACTION NECESSARY OR APPROPRIATE TO GIVE EFFECT TO THE MODIFICATIONS MADE BY THIS ACTION.

EXHIBIT "A"

**GENERAL INFORMATION AND APPLICATION MATERIALS REGARDING
SURFACE LEASING OF STATE LANDS**

The State Lands Commission has jurisdiction and management control over those public lands of the State received by the State at Statehood. Generally these lands include the all ungranted tidelands and submerged lands, beds of navigable rivers, streams, lakes, bays, estuaries, inlets and straits. In addition the State manages lands received after Statehood including swamp and overflowed lands and school lands. The Commission's Division of Land Management and Conservation in Sacramento administers the surface leasing of these lands. The Commission also manages the development of all mineral resources contained on such lands. Mineral applications are handled through the Commission's Long Beach office.

Land Ownership Determination

Upon receipt of an application or an inquiry about use of State lands the Commission's Title Unit reviews information in its files and that submitted by the applicant to determine the extent of the State's property interest. In some cases, the complex nature of the title to the lands may result in the applicant having to submit a title report or chain of title guarantee as part of the application process.

Leasing Policies

The State Lands Commission manages its lands for the benefit of all people of the State. In this regard the Commission has a multiple use management policy. Should the Commission determine that a particular parcel of land should not be leased but instead maintained in its natural state, the applicant for such a lease will be informed of such determination.

California Environmental Quality Act (CEQA)

The issuance by the State Lands Commission of any lease, permit or other entitlement for use of lands is reviewed under the California Environmental Quality Act (CEQA). No development project will be approved until the requirements of CEQA have been met (Public Resources Code (P.R.C.) Section 21000 and following). Additionally, if the application involves lands found to contain "Significant Environmental Attributes" within the meaning of P.R.C. Section 6370, consistency of the proposed use with the identified values must also be determined through the CEQA review process. Pursuant to its regulations the Commission may not issue a lease for use of "Significant Lands" if such use is detrimental to the identified values.

The initial step in reviewing an application is to determine whether the proposed project is exempt from CEQA. Exemptions from CEQA are either statutory or categorical. A listing of some exemptions may be found in the Commission's administrative

GENERAL INFORMATION AND REGULATIONS REGARDING
SOME STATE ENVIRONMENTAL REQUIREMENTS

regulations and others may be found in Title 14 of the California Code of Regulations.

If a project is not exempt, the staff of the Commission conducts an Initial Study to determine whether a project may have a significant effect on the environment. The Initial Study is circulated for review and comment to responsible, trustee and interested public agencies and others who have expressed an interest in such documents of the Commission. The circulation period is normally two (2) weeks. Based upon the responses received, a determination is made by staff as to whether a Negative Declaration (ND) or an Environmental Impact Report (EIR) is required.

A ND is the simpler of the two documents and requires less processing time and expense. Generally, the ND consists of the Initial Study accompanied by a determination by the staff that the project as proposed or amended will not have a significant effect on the environment. The ND is generally circulated for thirty (30) days to appropriate agencies and interested persons. This review is provided through the State Clearing House. If no significant comments are received, the Commission considers the ND together with any comments received, and certifies that the document has been prepared in compliance with the requirements of CEQA and considers the project.

An EIR is required in instances where it is clear that a project could have a significant effect on the environment or where responses to the initial study reflect concern that the proposed project may, or will have a significant effect on the environment. Usually a third party consultant will be hired by the Commission to prepare the EIR.

Experience has shown that EIR costs vary considerably. The applicant must deposit an amount specified by the staff of the Commission within twenty-one (21) days after written notice that an EIR is required. The staff will not solicit requests for proposals from independent environmental consultants until the deposit is received from the applicant. In addition, if the cost for the preparation of the EIR exceeds the amount deposited, the amount of excess costs must be deposited within fifteen (15) days after written notice is given. (Any unexpended portion of the deposit will be refunded to the applicant after the EIR is determined by the Commission to be adequate.) Should the applicant fail to deposit the requested costs, the application may be cancelled without further notice.

In most instances, the preparation of an EIR takes from six (6) to nine (9) months. The Draft EIR is circulated for forty-five (45) days to agencies and individuals concerned about the project. The State Clearing House provides for circulation to State agencies.

During the 45-day review period, a public hearing may be held. Comments and recommendations received and significant environmental points raised in the review and consultation process are responded to in the final EIR. This document is then circulated for an additional fifteen (15) days to those agencies and persons who commented on the Draft EIR. After the review period has ended, the Final EIR, including any mitigation measures, is presented to the Commission for certification. After certification, the Commission may consider the project.

Effective January 1, 1989 CEQA requires all state and local agencies to establish reporting or monitoring programs for projects approved by a public agency whenever approval involves the adoption of either a "mitigated project negative declaration" or specified environmental findings related to "environmental impact reports". The so called CEQA monitoring programs are likely to become a major part of the CEQA process. These new programs must be adopted by the approving public agencies and are intended to ensure the implementation of measures that public agencies impose to mitigate or avoid the significant adverse impacts identified in an environmental document. In addition to paying the cost of the ND or EIR the applicant must pay for all costs associated with the monitoring program.

Time Constraints/Completeness of Application

Most leases, permits or other entitlements for use require approvals from other public agencies. On many projects the State Lands Commission is the Lead Agency (the public agency with the principal responsibility for carrying out or approving a project when the project occurs on State Lands). Where an EIR is prepared, such responsibility requires the Commission to approve or disapprove a development project within one (1) year from the date on which the application was received and accepted as complete by the staff of the Commission. Where an ND is prepared or if the project is exempt from CEQA, the development project shall be approved or disapproved within six (6) months from the date the application was received and accepted as complete by the staff. An additional time period of up to ninety (90) days may be allowed if mutually agreed to by the staff and the applicant.

Not later than thirty (30) calendar days after the Commission receives an application for a development project, the staff will notify the applicant in writing whether the application is complete. In the event the application is determined not to be complete, the staff will specify what additional information is required. Upon receipt of the additional material, the staff will respond within 30 days as to whether the application is complete. Should the applicant fail to provide a complete application within a reasonable period of time, the file may be closed and all or any

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part of the fees retained by the Commission. There is an appeal process whereby an applicant may appeal the determination of the staff that the application material is incomplete.

The following are some of the circumstances that may cause the Commission to deny a project:

1. Failure of an applicant to furnish requested additional information;
2. Environmental considerations;
3. Failure to meet any statutory requirements;
4. Failure to submit requested fees or deposit for ND or EIR;
5. Failure to conclude negotiations or to execute documents;
6. Inability of applicant to meet financial qualifications as deemed appropriate by the staff.
7. Misrepresentation by the applicant or its agent; or
8. The Commission on its own motion may not desire to grant a lease for use of the lands for the intended use at the time of application.

Application Processing

As soon as the application is accepted as complete the staff will take all steps necessary including title work, land descriptions, and appraisals to prepare the appropriate leasing document. In most cases many of the terms and conditions of the lease or permit are subject to negotiation on a case by case basis. Once the lease terms and conditions have been agreed to and the leasing document has been executed by the applicant, staff will schedule the item for consideration by the Commission. The Commission normally meets one day per month. Items to be considered by the Commission must be finalized at least one month prior to the scheduled meeting in order for the item to meet applicable legal notice requirements.

Miscellaneous Information

The following concerns all applications:

An applicant acquires no property interest in State Lands until the Commission grants a lease, permit or other entitlement for use and until the appropriate document complete in all respects has been executed by the applicant and the State.

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APPLICATION FOR LEASE OF STATE LANDS

An application is not transferable; therefore, an agent should not submit an application without disclosing his agency status and the principal's identity, nor should an application be submitted with the later intention of attempting to transfer the application or an interest in an application.

The preceding information is an outline of the general requirements and procedures applicable to all surface leasing developments. Prospective applicants wishing to obtain a lease, permit or other entitlement for use of State Lands should read and complete the attached Application form and any attached parts that may be applicable and return it together with the data requested to the staff of the Commission for review and processing. Questions involving the surface leasing of state lands and the completed application form should be directed to:

State Lands Commission
Land Management Section
1807 13th Street
Sacramento, California 95814
Telephone (916) 445-7738

-Instructions-

APPLICATION FOR LEASE OF STATE LANDS

The attached application form has been developed in accordance with California Government Code Section 65940. The form has been designed to apply to a variety of surface use situations including commercial, industrial, right-of-way, and recreational developments. The form allows an applicant to fully describe its proposed use of State Lands and consists of several parts: Part I - Project and General Data; Part II - Environmental Data; Part III - Special Requirements (to be attached as applicable).

The information sought in the attached Application Form is required from the applicant and the sufficiency of the information provided by the applicant will be the basis by which the staff will determine the completeness of the application as specified in the Government Code (Section 65940).

When completing the attached form, please type or print clearly and submit it to the principal office of the Commission in Sacramento. Please answer all applicable questions and write "N.A." where questions do not apply. Applications for any use of state lands must be submitted on the attached form(s). Applications for amendments, assignments, renewals or replacements of existing leases or permits must also be submitted on the attached form(s). Materials not submitted on the attached forms are unacceptable, will be returned to the applicant, and will not be deemed applications under the law.

In addition, please submit any information believed important in support of the application. All plans or other materials submitted become a part of the official file and cannot be returned; however, certain information deemed proprietary by statute may be withheld from public view if requested by the applicant.

NOTICE:

Failure of an applicant to provide the information outlined on the attached forms(s) within the time limits prescribed by the staff may result in significant delays in determining that an application is complete; or, cancellation of the application.

In those instances where Commission costs and expenses are chargeable to the applicant, the applicant shall deposit with the Commission, the applicable expense deposit. If the deposit, including amounts required under Reimbursement Agreements, are not received within twenty-one (21) days of request, the application may be cancelled. Processing costs and environmental fees are calculated based on actual or estimated costs plus proportional overhead. If processing costs are more than estimated, the applicant will be required to submit these additional costs within the allowable time period.

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PART I

The application information outlined on the following forms is necessary in order to process your application for use of State land. You have the right to review files maintained about your application by the State Lands Commission, except as provided by law. The Commission Records Coordinator, State Lands Commission, 1807 13th Street, Sacramento, California, 95814, telephone (916) 445-9742, is responsible for maintenance of the information which is collected by the Commission.

The conduct of the Commission is governed by Public Resources Code Sections 6000, and following and Title 2, Division 3, Sections 1900, and following of the California Code of Regulations. Those provisions, by reference are included herein.

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-S-
-APPLICATION FORM-

PART I

The applicant herein named on the following pages is applying for membership in the organization of which he is a member. The applicant is hereby advised that the organization is a non-profit corporation and that the membership is not for sale. The applicant is advised that the organization is a non-profit corporation and that the membership is not for sale. The applicant is advised that the organization is a non-profit corporation and that the membership is not for sale.

SECTION A: IDENTIFICATION OF APPLICANT

1. Applicant: _____

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

2. Applicant's authorized agent or representative (if any):

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

3. Who should receive correspondence relevant to this application? (Check one)

Applicant: _____ Representative: _____ Both: _____

FOR COMMISSION USE ONLY:

Date Received: _____ Other Fees: _____

Work Order No.: _____ Assigned to: _____

Filing Fee: _____ Type of Document: _____

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SECTION B: TYPE OF APPLICANT

Check one and submit the required information.

- ____ 1. **CORPORATION:** Attach a Certificate of Incorporation issued by the State of California or a Certificate of Incorporation issued by the State of incorporation with the Certificate of Good Standing of Foreign Corporation issued by the Secretary of State of California authorizing the transaction of business in California; a certified statement of the names of the corporate president, secretary and/or officer(s) authorized to execute contracts; and a board resolution or other evidence of authority to enter into the requested transaction.
- ____ 2. **PARTNERSHIP:** Attach a certified copy of the partnership statement. If no partnership statement has been filed in the county in which the partnership does business, so state in the application and give all particulars of the partnership.
- ____ 3. **INDIVIDUAL:**
- ____ 4. **PUBLIC AGENCY:** Generally, all permits and leases issued by the State Lands Commission require monetary consideration. However, a public agency applicant may qualify for a rent-free lease/permit. In order to so qualify, the applicant must submit in writing a statement of justification for the rent-free status, which status shall be based on a statewide, as compared a primarily local, public benefit. Such statement shall detail the statewide public benefit derived from the project. The State Lands Commission shall determine whether a statewide public benefit is derived from the project.

Leases and permits involving "School Lands" cannot qualify for rent-free status.

Public agencies will also be required to submit evidence of the authority of the official(s) to execute contracts together with a resolution or other document authorizing execution of the appropriate lease or permit.

SECTION C: TYPE OF TRANSACTION REQUESTED (Check one) RECREATIONAL

- 1. Commercial
- 2. Industrial
- 3. Right of Way
- 4. Recreational
- 5. Protective Structure
- 6. Grazing
- 7. Public Agency Use
- 8. Recreational Pier Permit (See Part III)
- 9. Other: _____

Will the project require dredging? Yes: _____ No: _____

Existing Structure/Continued Use; or

New Construction/Additional Use

SECTION D: FEE SCHEDULE

All applicants shall pay at the time of filing this application non-refundable filing and processing fees. These are necessary to reimburse the Commission for the cost of processing routine, uncomplicated transactions and making the initial title review for lease and permits.

A. Filing Fee \$ 25

B. Applicants for the following leases or permits which do not provide for monetary consideration, or for any of the following actions which do not result in any increase in monetary consideration, shall submit, in addition to the filing fee required by law, the fees specified below:

TRANSACTION	MINIMUM NON-REFUNDABLE EXPENSE DEPOSIT
(a) Right of Way	\$ 350
(b) Public Agency Lease/Permit	\$ 450
(c) Assignment/Sublease approval	\$ 300
(d) Amendment of Lease to accommodate Lessee and which does not increase rental	\$ 500
(e) Lake Tahoe Public Trust Inspections	\$ 700 **
(f) Most other transactions not listed herein	\$ 300
(g) Recreational Pier Permit	\$ 45

** Fee included in environmental processing cost if ND or EIR required.

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In addition to the above listed fees, the Commission may require funds or deposits for other services. These services include but are not limited to:

1. Processing environmental documents/environmental monitoring.
2. Advertising or public notification.
3. Duplicating or certifying papers.
4. Searching records or ordering title reports.
5. Processing archaeological, biological or other necessary surveys.
6. Boundary Line work, title or boundary support efforts.

SECTION B: LOCATION OF STATE LAND AND PROJECT DESCRIPTION

County: _____ Nearest City: _____

Township, Range, Section and Reference Meridian: _____

OR Waterway: _____

Upland Owner's Name: _____
(If different from applicant)

Upland Owner's Address: _____

Telephone: () _____

Upland Address: _____

Subdivision, Block, and Lot Number: _____

Zoning: _____ Assessor's Parcel No.: _____

Number and type of buildings or improvements on the upland (when constructed): _____

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Describe and provide photographs of existing structures on waterway (when constructed): _____

Provide photos of the area adjacent to the project.

Does or will the upland or State land produce income? _____

If yes, annual amount received or projected: _____

If projected, please show basis of projection: _____

Project Description:

The applicant shall provide a narrative description of the project with references to maps, plot plans, financial analysis, and other graphics as may be appropriate. The project should be defined in sufficient detail so that the Commission staff can evaluate and analyze the project. Sufficient data should be supplied which will:

1. Show how the proposed project will be carried out, including initial construction equipment, techniques, time schedules and operation requirements.
2. Show the project's future phases or extensions, if any.
3. Detail other proposed projects that will be dependent upon this project or will be directly influenced by this project.
4. Describe the existing development in the vicinity which will directly or indirectly influence or be influenced by this project.

SECTION F: TITLE AND BOUNDARY INFORMATION

1. Submit a copy of the current upland vesting document (deed) and title report. Adjacent uplands refers to that parcel or property over which access will be obtained to the State's land. If the applicant is not the owner of the adjacent

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property, the applicant shall attach a copy of the lease, permit or other evidence of applicant's right to use the upland, in addition to the upland vesting document.

2. Submit a detailed plan or plot of proposed lease areas and existing and proposed structures showing their locations with respect to property lines, high and low water with reference to the datum of water line elevation and their dimensions.
3. Submit a vicinity map (8 1/2" x 11" with scale) showing the general area and the proposed leased lands.
4. Submit a U.S. Army Corps of Engineers Public Notice Permit or Notice Number.
5. If applicable, submit the number assigned to the project from the San Francisco Bay Conservation and Development Commission or the State Coastal Commission.
6. Submit a legal description of the area to be leased from the State, tied to a monument or monuments of record. The area to be leased must include the area occupied by any structures, or otherwise under the exclusive control of the lessee/permittee.

SECTION G:

Identify, (If known), other public agencies having approval authority over your proposed project: (i.e.; U.S. Army Corps of Engineers, local or regional planning bodies (BCDC or Coastal Commission), city and/or county governmental permitting authorities, air or water quality boards, etc.): _____

Submit copies of existing approvals with the application. You will be required to submit a copy of local approvals (City and/or County) for your project prior to consideration of your application by the State Lands Commission. If you cannot obtain local approval of your project prior to consideration by the State Lands Commission you must submit a letter or other document from the local agency setting forth the status of your local application and any concerns the local governmental agency has regarding your project.

SECTION H: AB 884 (Government Code Section 65920 and following)

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