

MINUTE ITEM

This Calendar Item No. 57
was approved as Minute Item
No. 57 by the State Lands
Commission by a vote of 3
to 0 at its 3/27/90
meeting.

CALENDAR ITEM

A 9

57

S 13

03/27/90
G 06-00
G 06-04
J. Sekelsky
D. Jones

AUTHORIZATION FOR STAFF TO HOLD PUBLIC HEARING
TO CONSIDER COMPLIANCE OF COUNTY OF MARIN AND
CITY OF SAUSALITO WITH LEGISLATIVE TIDELANDS GRANTS

APPLICANTS:

State Lands Commission
1807 - 13th Street
Sacramento, California 95814

County of Marin
Civic Center
San Rafael, California 94903

City of Sausalito.
P. O. Box 1279
Sausalito, California 94966

OWNERSHIP AND JURISDICTION

The State acquired sovereign ownership of all tidelands and submerged lands and the beds of navigable waterways within its boundaries upon its admission to the United States in 1850.

Pursuant to Chapter 497, Statutes of 1959, as amended, the Legislature granted administration of its fee interests in certain tidelands and submerged lands in Richardson Bay to the County of Marin (County).

Pursuant to Chapter 791, Statutes of 1957, as amended, the Legislature granted to the City of Sausalito (City) administration of all right, title, and interest of the State in the tidelands and submerged lands within the geographic boundaries of the City.

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Use of tidelands, owned in fee by the State and granted to local governments, must serve a statewide benefit consistent with the public trust for commerce, navigation, fisheries, recreation, open space, and other public trust purposes, and must be authorized under the granting statute(s). Use of lands underlying the State's public trust easement must not be inconsistent with trust needs for the area.

The Attorney General has advised that residential use is not a public trust use, and that the grants to the County and City do not authorize residential uses. There are well over a hundred residential structures on State-owned sovereign land in Richardson Bay. Administration of these sovereign lands has been granted to the County and the City pursuant to the above-referenced statutes. Commission staff has advised both the County and the City that such use is inappropriate and should be terminated. Staff has worked for several years with staffs of the County, City, and the Attorney General's office in an effort to develop a reasonable resolution of this issue, without success. The County and City have proposed as a possible solution to permit further residential use which may affect their granted sovereign lands, raising questions as to whether they are making a good faith effort toward achieving eventual compliance with their legislative tidelands grants and the public trust.

Pursuant to Section 6301 of the P.R.C., the State Lands Commission (SLC) retains oversight authority over tidelands granted in trust to local jurisdictions to assure the grantee's compliance with its grant. The grant to the County of Marin specifically authorizes the Attorney General, upon formal request by the Commission, made only after a noticed public hearing at which the County has had an opportunity to be heard, to bring an action to compel compliance by the County with its grant and other applicable provisions of law. The grant to the City of Sausalito does not expressly require such public hearing prior to bringing such action.

Staff therefore requests that the Commission authorize staff to hold a noticed public hearing to consider these issues, and to allow the County and the City to express disagreement with the Commission's position, or to describe any extenuating circumstances which preclude their compliance with their granting statutes and the public trust.

AB 884: N/A.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. AUTHORIZE STAFF TO CONDUCT A DULY NOTICED PUBLIC HEARING TO DETERMINE IF THE COUNTY OF MARIN, WITH RESPECT TO RESIDENTIAL USE IN RICHARDSON BAY, IS IN COMPLIANCE WITH CHAPTER 497, STATUTES OF 1959, AS AMENDED, AND ALL OTHER APPLICABLE PROVISIONS OF LAW CONCERNING THE TIDELANDS AND SUBMERGED LANDS WITHIN ITS LEGISLATIVE GRANT AND THE PUBLIC TRUST; AND IF THE CITY OF SAUSALITO, WITH RESPECT TO RESIDENTIAL USE IN RICHARDSON BAY, IS IN COMPLIANCE WITH CHAPTER 791, STATUTES OF 1957, AS AMENDED, AND ALL OTHER APPLICABLE PROVISIONS OF LAW CONCERNING THE TIDELANDS AND SUBMERGED LANDS WITHIN ITS LEGISLATIVE GRANT AND THE PUBLIC TRUST.

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