MINUTE ITEM
This Calendar Item No. C45 was approved as Minute Item No. 45 by the California State Lands Commission by a vote of 3 to 0 at its 5/9/96 meeting.

# CALENDAR ITEM
# C45

A 41

S 23

05/09/96
PRC 7891 W 23479
A.Scott
C. Fossum

**APPLICANT:**

Theodore Polos, Trustee of the Theodore Polos and Alma Polos Trust created pursuant to that certain trust agreement dated September 19, 1974; Chris Spiros, as Trustee of the Chris Spiros Revocable Trust and Georgene Fettis, as Trustee of the Georgene Fettis Trust dated December 1, 1995
%Dr. Theodore Polos
1485 East Mountain Drive
Santa Barbara, California 93108

**AREA, TYPE LAND AND LOCATION:**

A 0.25 more or less acre parcel of filled tide and submerged land located in the Pacific Ocean in the City of Malibu, Los Angeles County.

**LAND USE:**

The continued operation and maintenance of an existing restaurant, parking lot and rock rip rap shore protection.

**PROPOSED LEASE TERMS:**

Lease period:
8 years and 9 months beginning March 31, 1996.

Provisions re: additional periods:
six successive periods of five years each.

Surety bond:
$10,000.

Public liability insurance:
Combined single limit coverage of $1,000,000.

Consideration:

$1,000 per month for the first six months, thereafter $4,500 minimum per month against 10 percent of gross revenues apportioned based on the extent of encroachment onto State land; for purposes of the proposed lease that apportionment is agreed to be 15 percent, which yields a current rental percentage of 1.5 percent of gross sales; five-year rent review.

**BASIS FOR CONSIDERATION:**

Pursuant to 2 Cal. Code Regs. 2003.

**APPLICANT STATUS:**

Applicant is owner of upland.

**STATUTORY AND OTHER REFERENCES:**

A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.
B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6.

**AB 884:**

N/A

**OTHER PERTINENT INFORMATION:**

1. The proposed lease will allow the continued use of this area for a commercial restaurant pending resolution with the upland owner of a dispute over the location of the boundary that separates the private upland at this location from the sovereign ownership of the State.

2. In order to allow the commercial operation to continue the upland owner has agreed to enter into an interim lease that provides for rent to the State and a commitment to pursue a settlement of the dispute over the extent to which existing improvements extend onto filled tide and submerged lands.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code Sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as

proposed, is consistent with its use classification.

4. On March 13, 1996, the California Coastal Commission (CCC) granted Permit #4-96-009 for this project under its certified regulatory program (14 Cal. Code Regs. 15251 (c)).

5. Staff has reviewed the document and determined that the conditions, as specified in 14 Cal. Code Regs. 15253 (b), have been met for the Commission to use the environmental analysis document certified by the CCC as a Negative Declaration substitute in order to comply with the requirements of the CEQA.

**EXHIBITS:**

A. Land Description
B. Location Map

**IT IS RECOMMENDED THAT THE COMMISSION:**

1. FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT (COASTAL DEVELOPMENT PERMIT #4-96-009, WAS CERTIFIED FOR THIS PROJECT BY THE CALIFORNIA COASTAL COMMISSION UNDER ITS CERTIFIED PROGRAM (14 CAL. CODE REGS. 15251 (c)), THAT THE STATE LANDS COMMISSION HAS REVIEWED SUCH DOCUMENT AND THAT THE CONDITIONS AS SPECIFIED IN 14 CAL. CODE REGS. 15253 (b) HAVE BEEN MET.

2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTION 6370, ET SEQ.

3. AUTHORIZE ISSUANCE TO THEODORE POLOS, TRUSTEE OF THE THEODORE POLOS AND ALMA JEAN POLOS TRUST CREATED PURSUANT TO THAT CERTAIN TRUST AGREEMENT DATED SEPTEMBER 19, 1974; CHRIS SPIROS, AS TRUSTEE OF THE CHRIS SPIROS REVOCABLE TRUST; AND GEORGENE FETTIS, AS TRUSTEE OF THE GEORGENE FETTIS TRUST DATED DECEMBER 1, 1995, OF A EIGHT-YEAR AND NINE-MONTH GENERAL LEASE-

COMMERCIAL USE BEGINNING MARCH 31, 1996; WITH LESSEE'S OPTION TO EXTEND THE LEASE FOR SIX ADDITIONAL PERIODS OF FIVE YEARS EACH; IN CONSIDERATION OF RENT IN THE AMOUNT OF $1,000 PER MONTH FOR THE FIRST SIX MONTHS, THEREAFTER $4,500 PER MONTH MINIMUM AGAINST TEN PERCENT OF ACTUAL GROSS ADJUSTED BY THE PROPORTION OF THE RESTAURANT STRUCTURE LOCATED ON STATE LAND AS CURRENTLY CALCULATED THE PERCENTAGE RENT IS 1.5 PERCENT, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A $10,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF $1,000,000; FOR THE CONTINUED OPERATION AND MAINTENANCE OF AN EXISTING RESTAURANT, PARKING LOT AND ROCK RIP RAP SHORE LINE PROTECTION ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

# EXHIBIT A

## LAND DESCRIPTION

All those filled tide and submerged lands lying southerly and adjacent to: a) Lot 75 and that portion of Lot 74 of Tract 12634 (M.B. 260-25-27) and b) that portion of Lot 1 of the Rancho Malibu La Costa subdivision (M.B. 26-26) being a portion of the Rancho Topanga Sequit, which are presently improved as a part of the Sea Lion Restaurant premises located at 21150 Pacific Coast Highway, City of Malibu, County of Los Angeles.

**EXHIBIT "B"**

SITE MAP W23479

SEA LION RESTAURANT

LOS ANGELES COUNTY




CALENDAR PAGE 304

MINUTE PAGE 00 1030