

MINUTE ITEM
This Calendar Item No. 57
was submitted for information
only, no action thereon
being necessary.

Minute Item
57

12/09/04
D. Plummer

CALIFORNIA STATE LANDS COMMISSION
(INFORMATIONAL)

Regular Item 57: A status report was presented to the Commission on a comprehensive review of marina leases to ensure that the leases and their provisions were comprehensive to ensure protection for the state's waterways. The commission approved by the item by a 3-0 vote with directions to staff to pursue as far as they could, under the context of current law.

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MINUTE PAGE

**CALENDAR ITEM
57**

A)
) Statewide
S)

12/09/04
D. Plummer

**INFORMATIONAL ITEM
STAFF REPORT ON THE STATUS OF PROPOSED ENHANCEMENT OF
ENVIRONMENTAL PROTECTION IN COMMISSION MARINA LEASES**

**PARTY:
California State Lands Commission**

BACKGROUND:

At the request of Chairman Steve Westly, staff has undertaken a comprehensive review of marina leases issued by the Commission with the goal of ensuring that the Commission's leases provide for the greatest protection possible against pollution of the State's waterways.

Boating in California is more popular than ever with boat registrations increasing by 20,000 to 30,000 vessels per year. Currently there are approximately one million registered vessels in California. With this increase in popularity, the State's waterways face an increase of potential pollution from boaters and marina operations. Boating popularity is not unique to California, but is a national trend. Nationally, there are approximately 17 million boats and 11,000 marinas and boatyards. In response to the increase in boating demands, there has been an effort by both the federal government (U.S.EPA) and individual states to promote greater awareness of potential pollution sources and ways to minimize those potentials. The focus has been on both marina operations and boating activities with the promotion of "Clean Marinas" and "Clean Boating" programs.

In California, efforts have been under way for several years to promote clean boating. This effort is being conducted on both a governmental level and by associations representing marina operators and owners. Commission staff is a member of the California Clean Boating Network and the Interagency Coordinating Committee looking at marina and recreational boating sources of pollution.

CALENDAR ITEM NO. 57 (CONT'D)

In conducting its review of current marina lease terms, staff not only looked at what is taking place in California, but across the nation. Staff contacted sister agencies across the nation and Canada with the goal of comparing lease terms being used elsewhere. Not surprisingly, the Coastal and Gulf States, as well as the Great Lake states, were valuable sources of information. Some of the States operate marinas through marina operators, while other states issue leases much the same as this Commission. In reviewing operation agreements and leases of other states, staff found that the specific lease terms that are currently being used in our leases are consistent with, and in some areas of concern, more restrictive than those of the other states. As an example, since 1989, marina leases approved by the Commission have included specific language regarding refuse and plastics. Language regarding the use of plastics and polystyrene foam containers on the lease premises was adopted as a result of the concern for plastics and polystyrene entering the State's waterways. In addition, our current leases have prohibitions against bottom paint application or removal, engine and hull washing, and the draining and dumping of petroleum products.

The majority of the States include, as part of their leases or operating agreements, some form of "Best Management Practices". While staff has included in our leases the provision that our Lessees post the California Department of Boating and Waterways' publication "Clean Boating Habits" on the Lease Premises and their inclusion in the berth rental agreements, it is clear from Staff's research that more comprehensive "Best Management Practices" (BMPs) should be incorporated into our leases.

For purposes of analysis, the potential sources of pollution were looked at in two ways, pollution that might emanate from marina operations and pollution that might be triggered by general boating practices. Potential sources of pollution include such things as bilge water, fueling, hazardous materials, vessel sewage, vessel maintenance, solid and liquid wastes and storm water runoff. BMPs being considered have been categorized as BMPs for Marina Owners / Operators and BMPs for Berth holders / boaters. These are attached as Exhibit A and Exhibit B respectively. It is important to note that these generalized BMPs listed may need to be tailored to fit specific conditions at individual marinas. Staff will incorporate BMPs at the first available opportunity that arises for inclusion in our existing marina leases. In addition, circumstances may exist at certain marinas that warrant additional specific terms that are not listed here as a BMP or currently included in our leases.

Staff is continuing to look at additional BMPs to further address pollution sources but prior to their adoption, is evaluating potential economic and regulatory implications.

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As an example, a BMP that requires a marina operator to provide for hazardous waste collection is a worthy goal, but adoption of such a management practice may require the marina to operate as a hazardous waste generator and be subject to waste generator fees. In addition, the marina, by providing this service, may be subject to cradle to grave liability issues and an increase in operation costs.

Adoption of BMPs into our leases is a first step in an overall process. How well these BMPs are working to prevent pollution will have to be monitored. Staff will work with our lessees on a continuing basis to determine the effectiveness of the measures and whether problems are being encountered that make compliance difficult. Staff is confident that by working with our lessees on a continuing basis we can mutually ensure the implementation of stringent BMPs that will provide for increased protection of the state's waterways. Lessees will be required to report on compliance one year after inclusion of the BMPs into the lease, and tri-annually thereafter. Staff will make spot checks onsite to review compliance.

Inclusion of BMPs into our leases is not to suggest that our marina lessees are not currently doing many of these things. In fact, when we have met with lessees and potential lessees regarding adding new environmental requirements, they have, to date, been receptive to the incorporation of BMPs into the leases. Staff will continue to work with other state and local agencies, marina owners, and the boating public to incorporate the attached BMPs, as well as additional ones that are protective of the environment, economically feasible, and appropriate for the size, location and type of operations being conducted pursuant to leases issued by the Commission.

Staff is bringing this item to the Commission at this meeting to seek any additional input the Commission would like to make to the BMP development process. Next Staff will meet with marina and boating organizations to assure that these draft BMPs are comprehensive and practical. If significant changes are made as a result of this consultation staff will return to the Commission for an additional hearing. If significant changes do not result, the BMPs will be implemented when leases are initiated or renewed. Copies of the final BMPs will be forwarded to our legislative grantees, which will be requested to implement them through their own marina leases.

Staff is reviewing its other major lease categories to determine if other leases could be improved to better protect and benefit the environment.

EXHIBITS:

- A. Best Management Practices for Marina Owners / Operators
- B. Best Management Practices for Berth Holders / Boaters

EXHIBIT A

BEST MANAGEMENT PRACTICES FOR MARINA OWNERS / OPERATORS

Petroleum Management

Instruct staff not to use detergents or emulsifiers on a fuel or oil spill.

Post emergency telephone numbers to report oil or chemical spills in prominent locations at the marina.

Recommend the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.

Provide a collection site for used oily pads and used oil or provide information on how and where to dispose of them.

Hazardous Wastes

Have a marina policy to manage hazardous wastes and hazardous materials.

Post a prohibition on the disposal of used oil, antifreeze, paint, solvents, varnishes and batteries into the dumpster or general collection waste receptacles.

If you provide for hazardous waste collection, manage the wastes in a proper fashion through the use of structurally sound, non-leaking containers, in accordance with all local, state and federal laws.

In the event of a spill or leak, clean up and dispose of materials promptly and properly and report the spill to all appropriate entities.

If operating a collection facility is not feasible, provide information to your tenants on how and where to dispose their wastes.

Encourage the use of alternative products to hazardous household chemicals. There are many non-toxic or less-toxic products that can be used as alternatives.

Emergencies

Have an updated map of important shut off valves and make sure all employees know the locations.

Keep your list of Emergency Phone Numbers and contact persons updated.

Be sure that all employees are trained in emergency procedures and that they know their responsibilities for each situation as designed in an Emergency Response Plan.

Underwater Boat Hull Cleaning

Require the use of legal hull paints to reduce the possibility of contamination when performing hull cleaning.

Boat Sewage Discharge

If your marina operates a pump out facility, install adequate signs to identify the station, its location and hours of operation.

Provide the service at convenient times and at a reasonable cost.

Make the pump out station user friendly.

Develop and adhere to a regular inspection and maintenance schedule for the pump out station.

Provide educational information about the pump out station to boaters.

Inform berth holders of existing local, state and federal regulations pertaining to the use of Marine Sanitation Devices and the illegal discharge of boat sewage.

Post a list of local pump out locations in a conspicuous location such as the entrances to the docks.

Solid Waste

Keep litter picked up.

Place trash receptacles and dumpsters in convenient locations for boaters and guests.

Use covered dumpsters and trashcans so they do not fill up with rainwater and do not blow away in heavy winds.

Keep trash enclosures clean and free of debris.

Keep cleanup equipment and materials available.

Inspect trash storage areas regularly.

Dispose of all solid wastes in accordance with local, state and federal laws and regulations.

Liquid Waste

Train marina employees in oil spill response procedures.

Keep adequate spill response equipment and materials in strategic locations.

Storm Water Runoff

Maintain a Storm Water Pollution Prevention Plan.

Report spills that have entered or have a potential to enter a water body to appropriate agencies.

Provide signage adjacent to any storm drain inlet to discourage illegal dumping of pollutants.

Provide signs adjacent to parking lots that prohibit littering, dumping and vehicle servicing or washing.

Develop and implement a regular sweeping / cleaning program for hard surface areas.

Reduce or eliminate landscaping and irrigation runoff into the waterway.

EXHIBIT B

BEST MANAGEMENT PRACTICES FOR BERTH HOLDERS / BOATERS

Bilge Water Management

Keep bilge area as dry as possible

Regularly check fittings, fluid lines, engine seals, and gaskets

Fix all oil and fuel leaks in a timely manner

Do not drain oil into the bilge

Fit a drain pan, if feasible, underneath the engine to collect drips and leaks

Consider the use oil-absorbent pads, even in small boats.

If a bilge contains oil, absorb as much free oil as possible with a pad. Then pump the bilge dry and wipe down the bilge and equipment. If a bilge is severely contaminated, use a pump out service. Never pull the drain plug on a boat with a bilge full of oil, especially if it is on a launch ramp.

Dispose of oil-soaked absorbents at a proper facility. Check with the marina operator for guidance.

Do not use detergents or bilge cleaners unless the bilge can be pumped into an appropriate facility.

Petroleum Containment

Fill portable fuel containers on land or on the fuel dock to reduce the chance of fuel spills into the water.

Avoid overfilling fuel tanks and attend the fuel nozzle at all times.

Perform all major engine maintenance away from surface water. Any maintenance work on an engine must be done in compliance with rules and regulations governing the marina.

Use petroleum absorption pads while fueling to catch splash back and the any drops when the nozzle is transferred back from the boat to the fuel dock.

Keep engines properly maintained for efficient fuel consumption, clean

exhaust, and fuel economy. Follow all manufacturers' specifications.

Immediately report oil and fuel spills to the marina office and the U.S. Coast Guard National Response Center (Phone # 1 (800) 424-8802) and other appropriate agencies.

Hazardous Materials

Improper handling of hazardous materials can cause harm to human health and the environment and can result in serious penalties and expensive cleanup costs if contaminations occur.

Hazardous wastes generated by recreational boaters are considered household hazardous waste. Dispose of household hazardous waste in properly marked containers if provided by the marina or at the nearest appropriate site.

Vessel Sewage

Boaters should never pump out any holding tank in waters inside the three nautical mile limit. Always remember that it is illegal to discharge raw sewage from a vessel into U.S. waters.

Pumpout facilities should be used to dispose of stored waste whenever possible. They are fast, clean, and inexpensive.

Marine sanitation devices (MSDs) must be maintained to operate properly. Keep your disinfectant tank full, use biodegradable treatment chemicals, and follow the manufacturer's suggested maintenance program.

Do not dispose of fats, solvents, oils, emulsifiers, disinfectants, paints, poisons, phosphates, diapers, and other similar products in MSDs.

Whenever possible, use land-based rest rooms rather than onboard ones.

Vessel Cleaning and Maintenance

Ask your marina manager what types of maintenance projects are allowed in the slip.

Minimize the use of soaps and detergents by washing your vessel more frequently with plain water.

Do not use cleaners that contain ingredients such as ammonia, sodium, chlorinated solvents, or lye.

Use hose nozzles that shut off when released to conserve water and reduce the runoff from boat washing.

Ventilate your space to prevent the accumulation of flammable or noxious fumes.

Use eye protection and a respirator when there is the possibility that dust and debris could damage eyes or lungs.

Remove oil, debris and clutter from your immediate work area and dispose of properly.

Avoid spills in the water of all solvents, paints and varnishes.

Carefully read labels to ensure the products are used in a manner that is safe and won't harm the environment.

Use teak cleaners sparingly and avoid spilling them or fiberglass polishers in the water.

Sanding and Painting

When working in marinas, use designated sanding and painting areas. Check with the marina manager for the location and proper use of these areas.

Work indoors or under cover whenever wind can potentially blow dust and paint into the open air.

Where feasible, use environmentally friendly tools, such as vacuum sanders and grinders, to collect and trap dust. Some marinas have this equipment for rent, check with the manager.

Clean up all debris, trash, sanding dust, and paint chips immediately following any maintenance or repair activity.

Use a drop cloth beneath the hull to catch sanding dust and paint drops when working over unpaved surfaces.

When sanding or grinding hulls over a paved surface, vacuuming or sweeping loose paint particles is the preferred cleanup method. Do not hose the debris away.

Buy paints, varnishes, solvents, and thinners in sizes appropriate for the proposed work to avoid having to dispose of stale products.

When possible, use water-based paints and solvents.

Switch to longer lasting, harder, or non-toxic antifouling paint at your next haul out.

Paints, solvents, and reducers should be mixed far from the water's edge and transferred to work areas in tightly covered containers of 1 gallon or less.

Keep in mind that solvents and thinners may be used more than once by allowing the solids to settle out and draining the clean product off the top.

When in doubt about proper disposal practices, check with your marina and/or appropriate government agency.

Boaters should report any illegal discharge of boat sewage to the marina office or appropriate agency.

Boaters should use environmentally sensitive cleaning supplies that may end up in your gray water.

Boat Hull Cleaning and Maintenance

Ensure hull paint is properly applied and maintained to protect the hull from fouling organisms and thus improve your boat's performance.

Wait 90 days after applying new bottom paint before underwater cleaning.

Schedule regular hull cleaning and maintenance to reduce the build up of hard marine growth and eliminate the need for hard scrubbing.

Regularly scheduled gentle cleaning will also increase the effectiveness of the antifouling hull paint and extend its useful life.

Repair paint bonding problems at haul out to avoid further chipping and flaking of paint in the water.

Use, or ask your diver to use, non-abrasive scrubbing agents, soft sponges or pieces of carpet to reduce the sloughing of paint and debris.

Boaters are encouraged to use boat hull cleaning companies and individuals that practice environmentally friendly methods.

Solid Waste

Do not dump plastic or any other trash into the water.

Use the dumpsters, trash receptacles and other approved containers to dispose of garbage and other waste.