

PULLED

**Minute Item
C62**

12/08/05
WP 5925
N. Smith

**WILLIAM MCINERNEY
(APPLICANT)**

**Item C62 was removed from the agenda to be
heard at a subsequent meeting.**

002344

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**CALENDAR ITEM
C62**

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12/08/05
WP 5925.1
N. Smith

**GENERAL LEASE - RECREATIONAL
AND RESIDENTIAL USE**

APPLICANT:

William McInerney

AREA, LAND TYPE, AND LOCATION:

0.08 acres, more or less, of sovereign lands in Mare Island Straits, city of Vallejo, Solano County.

AUTHORIZED USE:

Existing deck and residential use.

LEASE TERM:

20 years, beginning December 8, 2005.

BACKGROUND:

On April 1, 1868, the State issued Tideland Survey numbers 10 and 11 for lands in Solano County. In ensuing years, the patented area was subdivided into numerous small lots, which were developed with homes built upon pilings in an area known as Sandy Beach.

The boundaries of the Tideland Surveys were litigated by private land owners in November 1945. The State was not a party to the suit. The court described the waterward boundaries of the tideland lots at the ordinary low water mark. The State Lands Commission surveyed the private judgment line in 1955. It was found that many of the porches, decks and small portions of some residences encroached below the adjudicated low water line.

Several property owners at Sandy Beach, whose structures encroached below the adjudicated low water line onto State-owned lands, have current Commission leases. Staff has notified those homeowners who are encroaching on State lands that they must acquire leases or remove their structures from State lands. It is the staff's position, supported on advice from the staff of the Attorney

CALENDAR ITEM NO. C62 (CONT'D)

General, that residential use is not consistent with the public trust under which the Commission holds State-owned sovereign lands, and should be permitted at Sandy Beach only to the extent it now exists, for so long as the State's lands are not needed for public trust purposes.

On December 16, 1980, the Commission issued a General Permit – Recreational and Residential Use No. PRC 5925. Since that Permit was issued, the upland property has been sold, and the Permit expired September 23, 2000. The current upland property owner, William McInerney has now applied to the Commission for a lease of State-owned lands for the existing deck and residence located at 39 Sandy Beach Road. The proposed lease premises include patented tidelands, subject to the State's public trust easement, upon which the residence is located, and the area waterward of the adjudicated low water line which is occupied by the remainder of the deck and residence. Rental is charged only for the deck and residence waterward of the adjudicated low water line, approximately 3,577 square feet. The proposed lease contains specific provisions prohibiting expansion of the residential structures, and requiring removal of residential structures from the State's lands under specific circumstances. Because the structure to be authorized by the proposed lease was previously approved and the property sale price reflected that approval and constitutes a relatively minor encroachment below the adjudicated low water line and does not appear to constitute a nuisance, staff recommends issuance of the proposed lease subject to the conditions contained therein, including but not limited to, the specific provisions referenced above.

CONSIDERATION:

\$968 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance: Combined single limit coverage of \$500,000.

Bond:

\$5,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the

CALENDAR ITEM NO. C62 (CONT'D)

staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

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.

EXHIBITS:

- A. Land Description
- B. Location Map

PERMIT STREAMLINING ACT DEADLINE:

1/22/2006

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

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

CALENDAR ITEM NO. C62 (CONT'D)

AUTHORIZATION:

AUTHORIZE ISSUANCE TO WILLIAM MCINERNEY OF A GENERAL LEASE - RECREATIONAL AND RESIDENTIAL USE, BEGINNING DECEMBER 8, 2005, FOR A TERM OF 20 YEARS, FOR AN EXISTING DECK AND RESIDENTIAL USE ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$968, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$500,000; SURETY IN THE AMOUNT OF \$5,000.

EXHIBIT A

PRC 5925

LAND DESCRIPTION

A parcel of tide and submerged land lying immediately beneath the building and deck on and adjacent to Parcel 43 as shown on the James and Waters Map of Sandy Beach Cabin Sites, Recorded in the Office of the County Recorder of Solano County, California, on February 14, 1944, Book 1 of Maps, Pages 1 and 2.

Together with the structure lying contiguous to and southerly of the southerly line of the said Parcel 43.

EXCEPTING THEREFROM any portion lying landward of the mean high tide line as shown on the W. B. Boggs Survey, per Solano County Superior Court Case Numbers 16949 and 19259.

END OF DESCRIPTION

Prepared November, 2005 for the California State Lands Commission.



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NO SCALE

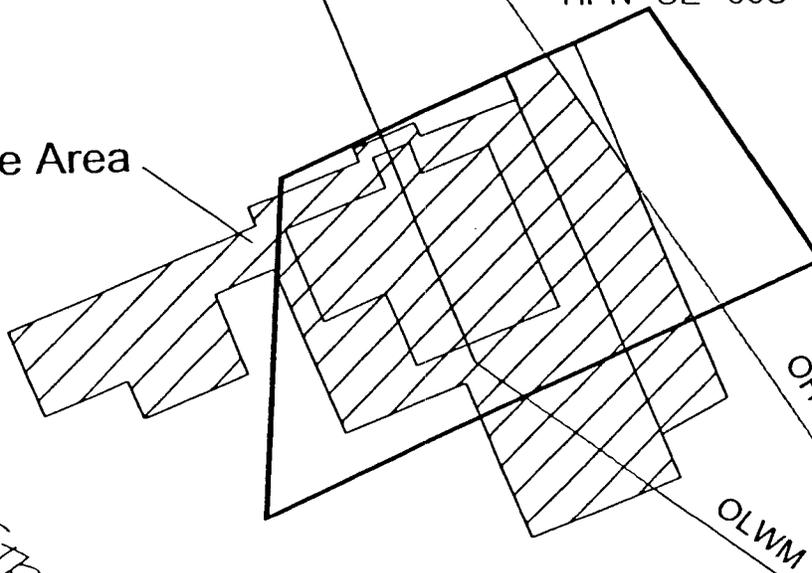
SITE



APN 62-003-23

Lease Area

MARK
ISLAND
STRAIT



OHWM

OLWM

APN 062 - 030 - 230

NO SCALE

LOCATION



EXHIBIT B
PR. 5925
General Lease
Recreational and Residential Use
Sandy Beach, Solano County
California



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

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