

MINUTE ITEM

5. APPLICATION FOR PERMISSION TO CONDUCT UNDERWATER EXPLOSION TESTS ON SUBMERGED LANDS OF THE STATE, UNITED STATES OF AMERICA - W.O. 4040, W.O. 4041, W.O. 4096, P.R.C. ~~2766.9~~ 2766.9
VOIDED

Following presentation of Calendar Item 29 attached, the Executive Officer informed the Commission that a letter had just been received from the Department of Public Works of the County of San Luis Obispo, suggesting that there should be further investigation and that on the basis of the information which they presently had they would object to the issuance of the proposed permit, although they realized they could be overruled by the Defense Department if no other location exists for the testing. The principal basis for their concern was that they wanted to be reassured that the tests would not result in any appreciable damage to the fishing grounds, and that adequate protective measures would be taken with the marine life offshore. The Executive Officer pointed out that the Department of Fish and Game had already covered this point by its statement of nonobjection to the United States, and that the only reason for reporting the objection from San Luis Obispo County was so that the record would be complete.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION:

1. RESCINDS THE ACTION TAKEN ON JULY 28, 1961, AUTHORIZING THE ISSUANCE OF A PERMIT TO THE UNITED STATES OF AMERICA TO CONDUCT CERTAIN UNDERWATER DETONATION TESTS ON STATE SOVEREIGN LANDS.
2. AUTHORIZES THE EXECUTIVE OFFICER TO ISSUE TO THE UNITED STATES OF AMERICA A LETTER OF NONOBJECTION TO THE CONDUCT OF UNDERWATER DETONATION TESTS IN AREAS UNDER THE JURISDICTION OF THE COMMISSION
 - A. WITHIN A RADIUS OF 25 MILES OF PASADENA;
 - B. WITHIN A RADIUS OF 25 MILES OF BERKELEY;
 - C. MORE THAN 2-3/4 MILES OFFSHORE AND 8 MILES SOUTHWEST OF PISMO BEACH IN SAN LUIS OBISPO COUNTY.

Attachment
Calendar Item 29 (1 page)

CALENDAR ITEM

29.

APPLICATION FOR PERMISSION TO CONDUCT UNDERWATER EXPLOSION TESTS ON SUBMERGED LANDS OF THE STATE, UNITED STATES OF AMERICA - W.O. 4040, W.O. 4041, W.O. 4096.

On July 28, 1961, the Commission authorized the issuance of a permit to the United States of America to conduct a series of underwater detonation tests on State submerged lands within a radius of 25 miles of Pasadena and within a radius of 25 miles of Berkeley. The permit included a provision whereby the United States would agree to indemnify the State against any claim for loss or damage resulting from the project. Upon review of the permit by an attorney of the United States, the indemnity provision was declared to be unacceptable on the grounds that no agency of the United States, including the Defense Department, would have the authority to commit the federal government by acceptance of the subject permit.

A solution to the impasse would be the rescission of the previous Commission action authorizing the issuance of a permit, and authorization for the issuance of a letter of non-objection to the underwater tests, thereby eliminating, or at least reducing, possible State liability to a negligible consideration.

This proposed course of action has been reviewed and found to be acceptable by the office of the Attorney General and by the United States at the local level.

The United States has also requested approval of underwater tests for national defense in an additional area located more than 2-3/4 miles offshore and approximately 8 miles southwest of Pismo Beach in San Luis Obispo County. Clearance for the additional testing site has been obtained by the applicant from Vandenberg Air Force Base, from the Rangemaster of the Pacific Missile Range, and from the State Department of Fish and Game.

The County of San Luis Obispo and the Division of Small Craft Harbors has been advised of the additional offshore test area proposal.

IT IS RECOMMENDED THAT THE COMMISSION:

1. RESCIND THE ACTION TAKEN ON JULY 28, 1961, AUTHORIZING THE ISSUANCE OF A PERMIT TO THE UNITED STATES OF AMERICA TO CONDUCT CERTAIN UNDERWATER DETONATION TESTS ON STATE SOVEREIGN LANDS.
2. AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE TO THE UNITED STATES OF AMERICA A LETTER OF NON-OBJECTION TO THE CONDUCT OF UNDERWATER DETONATION TESTS IN AREAS UNDER THE JURISDICTION OF THE COMMISSION
 - A. WITHIN A RADIUS OF 25 MILES OF PASADENA;
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 - C. MORE THAN 2-3/4 MILES OFFSHORE AND 8 MILES SOUTHWEST OF PISMO BEACH IN SAN LUIS OBISPO COUNTY.

A 7, 19, 24, 36, 46, 60 & 61
S 13, 14, 29 & 38

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