

3/23/68

38. TERMINATION OF ARK SITE LEASES, CORTE MADERA CREEK, MARIN COUNTY -
W.O. 5754.

In connection with Calendar Item 38 attached, appearances were made by:

Mrs. Myrtle Hugus, Ark Site No. 11A, and Mrs. Harry Winter, Ark Site
No. 5B, who again brought up the question of compensation for the
loss of the structures located on their ark site leases.

Commissioner Weinberger recommended that the staff be asked to confer with
the County of Marin officials to minimize the impact of lease cancellations
by determining procedures to permit maximum removal of personal property
from the site lease areas.

THE COMMISSION AUTHORIZES THE ISSUANCE OF 60-DAY NOTICES OF TERMINATION TO
THE LESSEES OF SITES ON CORTE MADERA CREEK, MARIN COUNTY, LISTED ON EXHIBIT
"A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment

Calendar Item 38 (3 pages)

38.

TERMINATION OF ARK SITE LEASES, CORTE MADERA CREEK, MARIN CO. - W.O. 5754.

The Marin County Department of Public Works has applied to the Commission to terminate 13 site leases located on sovereign lands of Corte Madera Creek above, or westerly, of the Bon Air Bridge (see Exhibit "B"). The application represents the latest in a series of steps occurring over a period of years that have had as their goal the completion of a flood-control-channel project conducted jointly by the U. S. Army Corps of Engineers, the State Department of Water Resources, and the County of Marin. The immediate subjects of the application are the 13 site leases that, in July 1966, were continued by the Commission on a month-to-month extension basis, subject to 60-day termination notice and pending a point in time when the specific areas encompassed by the leases would be needed for the purposes of the flood-control project.

The flood-control project initially came to the attention of the State Lands Division late in 1964 when, in anticipation of the December 31, 1965, expiration date of a total of 23 site leases on Corte Madera Creek, staff queried local units of government as to their comments relative to renewing the leases. The replies received by the Division requested that the leases not be renewed, primarily because of the then impending flood-control project.

The structures on the lease areas existed on Corte Madera Creek for a number of years prior to the establishment of the Commission in 1938. The areas were not under lease by the State at the time of initial occupancy, and, of course, the structure owners were automatically trespassing upon State property until placed under lease in 1952. The leases were scheduled to expire on December 31, 1965, and contained no renewal options, specifically for the reason that the State might have the opportunity at that time to determine the nature of the public interest as it then existed.

When confronted by the contemplated flood-control project in 1964 (the U. S. Congress had appropriated funds for the project for fiscal year 1964 following a positive recommendation by the Corps of Engineers), it became apparent that the only question for the Commission was one of which intended use was in the greater public interest.

To obtain more data on the regional needs of the area and to give the site lessees the fullest opportunity to present their views, the Commission, in October 1965, directed the Executive Officer to hold a special public hearing in Marin County on the matter, and to issue month-to-month extensions of the leases until after the hearing. The hearing was held in April 1966, subsequent to an informal meeting between staff and the lessees earlier in January 1966. At these two meetings, the issue crystalized into a desire on the part of the lessees to be compensated for their structures because of having to abandon them to the needs of the flood-control project. This was not an issue which the Commission was authorized to consider by law. The Commission, however, encouraged staff to minimize the impact of removal where feasible. Noting that the project schedule, including funding, was segmented into two phases, the first being below and the second being above the Bon Air Bridge, staff

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negotiated an agreement whereby the structures above the bridge could remain in place until Phase II was ready to begin. At its meeting of July 1966, the Commission authorized the Executive Officer to terminate leases located below the Bon Air Bridge. Those above the bridge have been allowed to continue on a monthly basis with no change in rental rates.

The site lessees above the Bon Air Bridge have continued in their tenancy to the present time. As noted at the beginning of this item, the County of Marin has requested officially that these leases be terminated to enable Phase II of the flood-control project to begin within the next few months.

Pursuant to an agreement made with staff at the time of site clearance for Phase I (below the bridge), the County was to have provided ample advance warning of the start of Phase II of the flood-control project to the State's lessees above the bridge. Accordingly, the Marin County Board of Supervisors held a public hearing on March 12, 1968, at which the need for and the public benefit to be derived from the construction of the flood-control channel were explained to the lessees and other interested parties. The County has also reported that it is investigating as to any possible procedure for compensation to present lease holders for personal property (structures) that will have to be demolished in the construction of the flood-control channel.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ISSUANCE OF 60-DAY NOTICES OF TERMINATION TO THE LESSEES OF SITES ON CORTE MADERA CREEK, MARIN COUNTY, LISTED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

<u>P.R.C. No.</u>	<u>Ark Site No.</u>	<u>Lessee</u>	<u>Address</u>
694	1	Leone M. Birch	c/o Robert Brun 685 Francisco Street San Francisco, California 94133
809	4	R. R. Durham	Bon Air Road San Rafael, California
690	5B	H. H. Winter	9 Maple Avenue Kentfield, California
677	6	Barbara Pell & Nancy Bean	2844 Lyon Street San Francisco, California 94123
683	7	J. A. Nyquist	Box 173 Kentfield, California
686	7A	Asa Briggs	115 Evergreen Drive Kentfield, California
692	8	Loretta M. Schmidt	2343 - 41st Avenue San Francisco, California 94116
678	9	R. E. Oliver	56 Circle Road San Rafael, California
685	10	Wm. R. Hanlow & Albert K. Engel	6 Hawthorne Lane Corte Madera, California
682	11	Charles E. Vogel	2040 Sir Francis Drake Boulevard Fairfax, California
693	11A	John W. Hugus	610 Humboldt Street Richmond, California
696	12	Betty McLellan	19 Molimo Drive San Francisco, California 94127
684	13	Arthur B. Wing	Board Walk No. 4 Larkspur, California