

MINUTE ITEM

6/25/70
CRK

6. 10-YEAR PUBLIC AGENCY PERMIT, TIDE AND SUBMERGED LANDS ADJACENT TO DOHENY BEACH STATE PARK, ORANGE COUNTY; STATE DEPARTMENT OF PARKS AND RECREATION - W-8660, P.R.C. 4462.9.

After consideration of Calendar Item 13 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE ISSUANCE TO THE STATE DEPARTMENT OF PARKS AND RECREATION OF A 10-YEAR PUBLIC AGENCY PERMIT FROM MAY 1, 1970, IN THE FORM OF EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment:

Calendar Item 13 (5 pages)

CALENDAR ITEM

13.

6/70
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PUBLIC AGENCY PERMIT

APPLICANT: State Department of Parks and Recreation.

LOCATION: 192.10 acres of tide and submerged lands adjacent to Doheny Beach State Park, Orange County.

LAND USE: Recreational use by the general public, educational use by institutions of higher education, and such other multiple use as the State Lands Commission may, at any time, prescribe by Notice to Permittee.

TERMS: Initial period: 10 years, from May 1, 1970.

CONSIDERATION: The public use and benefit, with State reserving the right to review and set a reasonable monetary rental if it shall determine that such action is in the State's best interest.

STATUTORY AND OTHER REFERENCES:

- a. Public Resources Code: Div. 6, Pt. 2, Ch. 1, Secs. 6501-6509.
- b. Administrative Code: Title 2, Div. 3, Arts. 1 & 2 as amended effective May 10, 1969.

OTHER PERTINENT INFORMATION:

1. The annual rental value of the site is estimated to be \$57,600.00.
2. The basic reason for this permit is to give the Department of Parks and Recreation a measure of control over the adjacent sovereign land for visitor control and public safety. These factors have become important because of considerable seaward enlargement of the beach area, which has resulted from recent flood-control work in the area and construction of the Dana Point Marina.
3. The permit provides that the use will comply with the Comprehensive Ocean Area Plan, when it is promulgated in 1972, as it affects the demised land.

EXHIBITS: A. Form of Permit. B. Location map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ISSUANCE TO THE STATE DEPARTMENT OF PARKS AND RECREATION OF A 10-YEAR PUBLIC AGENCY PERMIT FROM MAY 1, 1970, IN THE FORM OF EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

STATE OF CALIFORNIA
STATE LANDS COMMISSION

PUBLIC AGENCY PERMIT NO. _____ PUBLIC RESOURCES CODE SERIES

THIS AGREEMENT, made and entered into by and between the California State Lands Commission, acting pursuant to the authority contained in Division 6 of the Public Resources Code as supplemented by rules and regulations adopted thereunder, and the Director, California State Department of Parks and Recreation, hereinafter called Permittee,

W I T N E S S E T H:

- A. WHEREAS, all ungranted tide and submerged lands situated within and owned by the State are by law under the exclusive jurisdiction of the State Lands Commission; and
- B. WHEREAS, the Public Resources Code provides that the Commission shall exclusively administer and control all such lands, and may lease or otherwise dispose of such lands as provided by law upon such terms and for such consideration, if any, as are determined by it; and
- C. WHEREAS, the Director of the Department of Parks and Recreation has requested that the specific area of tide and submerged land hereinafter described be transferred to the jurisdiction of that department by lease or otherwise; and
- D. WHEREAS, the State-controlled tidelands and submerged lands along the Pacific Coast represent a limited resource that must be judiciously and prudently designated for multiple uses that will be in the best interests of all Californians; and
- E. WHEREAS, in recognition of the foregoing, there has been created the Inter-agency Council for Ocean Resources (ICOR) to (1) review and analyze single-interest plans for each agency concerned with oceanic matters, and (2) to identify, compare and reconcile conflicting plans for use of the lands including multiple uses where feasible and desirable, the result to be known as a Comprehensive Ocean Area Plan (COAP); and
- F. WHEREAS, it appears that the COAP will not be completed until 1971 or 1972; and
- G. WHEREAS, the State Lands Commission deems it to be in the public interest to grant permission at this time to the State Department of Parks and Recreation for use of the tide and submerged lands hereinafter described on a non-exclusive basis for public recreational purposes, on condition that such permit shall include provisions for curtailing or expanding such use.
 1. NOW THEREFORE, in consideration of the State-wide public use and benefit, the State Lands Commission does hereby grant, for a term of ten (10) years beginning May 1, 1970, to the Director, Department of Parks and Recreation, State of California, a Permit of, in and upon certain tide and submerged lands situate in the County of Orange, State of California, being more particularly described on Exhibit "A" attached hereto and by reference made a part hereof.

2. This permit is subject to existing contracts, leases, licenses, easements, encumbrances and claims which may affect the demised premises, and this permit is issued without warranty by State Lands Commission of title, quiet enjoyment, condition or fitness of said premises for the intended use, or any other warranty whatever, except that Permittee faithfully keeping all the terms, provisions and conditions of this permit on Permittee's part to be performed, State agrees not to interfere with Permittee's use of the premises, except as herein may otherwise be provided.
3. This permit is not intended to constitute the establishment of the State's boundary and is to be without prejudice to any boundary claims which may in the future be asserted.

The parties of this AGREEMENT do hereby covenant and agree;

4. That the demised premises shall be subject to the Rules and Regulations of the Department of Parks and Recreation insofar as they do not conflict with the terms, conditions and covenants herein contained and with the public right of reasonable access for commerce, navigation and fisheries; and
5. That the Permittee shall, upon receipt of an application approved by the Coordinating Council for Higher Education, permit reasonable use of the demised lands for education and research by an accredited institution of higher education; and
6. That the State Lands Commission expressly reserves the right to amend this PERMIT by Notice, at any time to Permittee, to curtail or expand the authorized use of the demised premises; and
7. That both parties to this Agreement shall comply with provisions of the Comprehensive Ocean Area Plan when approved and promulgated, to such extent as the Plan shall apply to the demised land; and
8. That the State Lands Commission expressly reserves the right to grant easements or crossings, in, upon and under the demised premises, and nothing herein contained shall be construed as limiting the powers of the State Lands Commission to lease, convey, or otherwise transfer or encumber, during the life of this agreement, the hereinbefore described lands for any purpose whatsoever not inconsistent or incompatible with the rights or privileges granted to the Permittee by this agreement; and
9. That the State Lands Commission expressly reserves the right to establish, prescribe and make periodic changes in a system of priorities for multiple use of the hereinbefore described lands by authorized persons, agencies or organizations, provided that the Permittee shall administer such priority system; and
10. That the Permittee shall not transfer nor assign this AGREEMENT; and
11. That the permittee shall observe and comply with all rules and regulations now promulgated by any agency of the State of California having jurisdiction therein and such rules and regulations as may hereafter be promulgated by any agency of the State of California having jurisdiction therein; and

12. That the State Lands Commission, through its authorized agents, shall have the right at all reasonable times to go upon the said premises and the adjoining upland for the purpose of inspecting the demised premises; and
13. That there is reserved to the State Lands Commission all natural resources, timber and minerals, including oil or gas in or upon the described land and the right to grant in, over and across said land, leases, easements and/or rights-of-way to extract or remove such natural resources, timber or minerals as provided by law and the rules and regulations of the State Lands Commission and without compensation to the Permittee; and for the term of this agreement the State Lands Commission agrees to limit the right of surface entry for the purpose of the extraction of the above mentioned resources; and
14. That for the reasons set forth in paragraph E above, this permit shall not be construed as authorization for the designation of the demised land as an underwater park as defined by Chapter 483, Statutes of 1969.

The sole and entire consideration to the State for the within Permit shall be the public use and benefit. However, the State Lands Commission reserves the right to review the consideration at any time and to set a monetary rental if it shall determine such action to be in the State's best interest.

This Agreement will become binding on the State Lands Commission only when duly executed on behalf of the State Lands Commission of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date hereafter affixed.

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

STATE OF CALIFORNIA
STATE LANDS COMMISSION

William Penn Mott, Jr.
Director

By _____

/s/ Robert H. Meyer

Deputy Director

Date

(SEAL)

EXHIBIT "A"

Lessee: Department of Parks & Recreation

W-8660

All that real property situate in the County of Orange, State of California, described as follows:

A parcel of tide and submerged land in the Pacific Ocean immediately adjacent to Doheny State Beach as said Beach is delineated on that certain map entitled "Doheny State Beach, Ownership", prepared by the Division of Beaches and Parks in May, 1958, Drawing No. 4124, more particularly described as follows:

Bounded on the north by the ordinary high water mark;

Bounded on the east by a line extended southerly, normal to the shoreline, from the point of intersection of the easterly boundary of said State Beach with the ordinary high water mark;

Bounded on the south by a line parallel with and 1,500 feet southerly of, measured at right angles to, said ordinary high water mark.

Bounded on the west by a line extended southerly, normal to the shoreline, from the point of intersection of the westerly boundary of said State Beach with the ordinary high water mark.