

MINUTE ITEM

12/21/71
FDU

14. AUTHORIZE THE FILING OF AN ACTION IN EJECTMENT AND FOR DAMAGES AGAINST THE LESSEES UNDER PRC 4539.9 REGARDING THE VESSEL "LA JENELLE," AND FOR SECURING LEGAL TITLE TO SAID VESSEL BY COURT ACTION, AND FOR TAKING ALL OTHER APPROPRIATE ACTION TO CAUSE THE VESSEL TO BE REMOVED FROM STATE-OWNED TIDE AND SUBMERGED LANDS - PRC 4539.9.

Action on Calendar Item 4 attached was deferred for one month as the lessee has demonstrated progress in the dismantling of the beached vessel during the past several weeks.

Attachment:

Calendar Item 4 (2 pages)

CALENDAR ITEM

12/71
PRC 4539.9
FDU

4.

AUTHORIZE THE FILING OF AN ACTION IN EJECTMENT AND FOR DAMAGES AGAINST THE LESSEES UNDER PRC 4539.9 REGARDING THE VESSEL "LA JENELLE", AND FOR SECURING LEGAL TITLE TO SAID VESSEL BY COURT ACTION, AND FOR TAKING ALL OTHER APPROPRIATE ACTION TO CAUSE THE VESSEL TO BE REMOVED FROM STATE-OWNED TIDE AND SUBMERGED LANDS.

On April 13, 1970, the passenger ship La Jenelle broke loose from its mooring two miles seaward from Port Hueneme and washed ashore adjacent to the entrance of Port Hueneme Harbor on State-owned tide and submerged lands. Purchasing the ship from a bankruptcy proceeding, Bahama Star Salvage (Bahama) entered into a joint-venture agreement with Clarita Valley Salvage, Inc. (Clarita) to remove and salvage the ship. The joint venturers entered into a lease agreement in November 1970 with the State Lands Commission. This lease provided authority for the salvagers to occupy State-owned tide and submerged land in order to remove the vessel and restore the beach to its original condition. The agreement called for performance of several acts that were not accomplished. In June 1971 Bahama sold the ship to Clarita, although the legality of this transaction was challenged by certain directors of Bahama. The Superior Court upheld the sale in a Judgment dated September 7, 1971. Since June 1971 Clarita has been attempting to construct a road to the ship in order to begin dismantling operations. Thus far the road is not finished.

In early October 1971 Clarita entered into a tentative agreement with Rucker Controlled Explosives (Rucker), providing for them to take over the salvage operation. Upon closer inspection, however, Rucker decided that the costs of dismantling the ship exceeded the salvage value, and that the large amount of wooden superstructure aboard constituted a fire hazard; thereafter Rucker declined to become a joint venturer in the salvage project, but indicated a desire to participate on a contract basis.

At the July meeting, the Lands Commission authorized the Office of the Attorney General to proceed with an action in injunctive relief to get a court order to all parties concerned, requesting and demanding that the vessel be removed so that, irrespective of what occurs in the future, there will be the force of a court determination that the vessel must be removed.

As a preliminary step to any action, on September 30, 1971, all known claimants of interest were notified under Harbors and Navigations Code Section 522 that they had 30 days to effect removal of the vessel from State-owned tide and submerged lands.

As of this time, the owner, Clarita Valley Salvage, Inc., has removed only small items that could be hand carried off the ship. The access road, under construction for many months, still does not reach the ship. The agreed rental, as provided in the lease, has not been maintained on deposit, and the joint bank account has been closed. Liability insurance, as required in the lease, was cancelled in September 1971, and a refund was taken by Clarita of the unexpended premium. The original term of the lease expired July 1, 1971, but, pursuant to other lease provisions and special authority provided by the Lands Commission at the July and August meetings, the lease has been

CALENDAR ITEM 4. (CONT.)

continued on a month-to-month basis even though Clarita Valley Salvage, Inc., has been in violation of the lease terms. It is noted, however, that the lessee has maintained a security watch on the site almost continuously that has prevented unauthorized persons from boarding and possibly being injured on the vessel. The lease provided for a maximum of six such optional monthly extensions, and will therefore terminate on January 1, 1972, without provision for further renewal.

Staff investigation has disclosed that:

1. The lessees have not removed the vessel from State-owned tide and submerged lands, as required under the terms of the lease;
2. The lessees have failed to restore the beach to its pre-existing condition;
3. The lessees have failed to protect the State by providing the specified public liability and property damage insurance;
4. The lessees have failed to maintain on deposit in the joint bank account the monthly rent of \$500 (totalling \$6,000) due the State;
5. Reliable salvage firms advise that removal of the ship is not a profit-making venture, and would attract them only if done under contract by a financially backed institution;
6. The present lessees, in the opinion of the staff, lack the financial backing needed to effect removal of the vessel.

Exhibit: A. Site map.

IT IS RECOMMENDED THAT THE COMMISSION:

- A. FIND THAT THERE HAS BEEN UNREASONABLE DELAY IN REMOVING THE VESSEL "SS LA JENELLE" FROM STATE-OWNED TIDE AND SUBMERGED LANDS; AND
- B. AUTHORIZE THE EXECUTIVE OFFICER TO GIVE THE NECESSARY NOTICES TO TERMINATE ANY RIGHTS OF THE LESSEE UNDER LEASE PRC 4539.9 EFFECTIVE JANUARY 1, 1972; AND
- C. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL APPROPRIATE LEGAL ACTION, INCLUDING FILING AN ACTION IN EJECTMENT AND FOR DAMAGES AGAINST THE LESSEES UNDER PRC 4539.9, AN ACTION PURSUANT TO SECTION 522 OF THE HARBORS AND NAVIGATION CODE, AND AN ACTION TO SECURE LEGAL TITLE TO SAID VESSEL BY ACTIONS IN FEDERAL BANKRUPTCY AND ADMIRALTY COURTS OR STATE COURTS; AND
- D. AUTHORIZE THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL APPROPRIATE ACTION TO CAUSE THE VESSEL TO BE REMOVED, INCLUDING NEGOTIATIONS WITH APPROPRIATE FEDERAL AGENCIES FOR POSSIBLE REMOVAL.