

3. AUTHORIZATION FOR ISSUANCE OF FOUR-MONTH LEASE TO DISMANTLE AND REMOVE VESSEL "LA JENELLE" AT PORT HUENEME, VENTURA COUNTY; CLARITA VALLEY SALVAGE, INC.; OR, ALTERNATIVELY, AUTHORIZATION FOR NECESSARY LEGAL ACTION - W 2880.31, PRC 4642.9.

During consideration of Calendar Item 13 attached, several appearances were made, as noted below.

Assemblyman J. K. (Ken) MacDonald reported that the Board of Supervisors of Ventura County had contacted him the previous day and requested that he contact the Lands Commission because the construction of the access road to the ship is creating undue County liability about which they are concerned. The County is anxious that the Commission consider the establishment of some type of round-the-clock supervision of movement on and off the "La Jenelle" until the matter can be resolved, and asked that an attempt be made to find a responsible contractor who can actively pursue elimination of this hazard.

The Executive Officer reported receipt of a letter from Senator Lagomarsino on the same subject discussed by Assemblyman MacDonald. The Executive Officer then presented a history of the problem, and discussed the security matter in depth.

Timothy Holabird, representing Clarita Valley Salvage, Inc., appeared in his own defense and requested that the Commission permit him to continue with the salvage operation. Mr. Holabird stated that he had maintained security guards, but that they and his entire staff had been removed at the request of the Navy. He is willing to provide security guards again as soon as he has approval to do so. The Navy is demanding rent for the access area, and this matter is being negotiated at present.

The question of Navy involvement in the matter was then discussed at length.

Warren J. Abbott, Deputy Attorney General, stated that he concurred in the recommendations made by staff to the Commission.

In response to questions raised by the Commission, Mr. Holabird reported on the many problems that had arisen in attempting to dismantle the "La Jenelle". He stated that he was willing to meet the insurance requirements of the Commission, but did not feel that he should have to pay rent to the Navy nor to any other governmental agency. Also, he said he would need a blasting permit from Ventura County.

James Isom, Administrative Executive Officer, County of Ventura, appeared in opposition to a continuing lease with Clarita Valley Salvage, Inc. It is the County's position that they do not want to see the State's lease with Mr. Holabird continued, but want to see a contract let with some other private salvager, for many reasons, including past performance, inability to meet payrolls, the ship is an eyesore, etc. Ventura County is in a position to assume liability secondarily, with the State liable primarily, according to Mr. Isom.

Assemblyman MacDonald offered to assist in working out the many problems that exist with the County of Ventura and the Navy, and will set up a meeting for this purpose with the Ventura County Board of Supervisors within the next few days. It is Mr. MacDonald's understanding that Senator Lagomarsino also is willing to assist in working out the problems.

Ray Miller claimed that he had been patrolling the area and keeping people off the ship, having recently taken possession of it as an abandoned vessel.

The Executive Officer reported that on Saturday, February 12, he was at the site of the "La Jenelle", and at that time had extensive discussions with two Deputy Sheriffs for the County of Ventura, who were busy restricting spectators from access to the vessel. The Deputies informed him that they would be there from dawn to dusk that day and the following day. Also, the Executive Officer was informed by the County that the Deputies were there on both of the succeeding weekends. Therefore, it is clear that the County is and has been concerned with the problem.

Mr. James Isom confirmed that to his personal knowledge two Deputy Sheriffs had been on patrol.

Upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS, IN ACCORDANCE WITH ENVIRONMENTAL IMPACT REPORT NO. 42 ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, THAT A LEASE AS RECOMMENDED HEREIN WILL NOT HAVE A SIGNIFICANT DETRIMENTAL EFFECT.
2. AUTHORIZES THE ISSUANCE TO CLARITA VALLEY SALVAGE, INC., OF A FOUR-MONTH LEASE FROM JANUARY 1, 1972, TO APRIL 30, 1972, IN CONSIDERATION OF THE REMOVAL OF THE SHIP "LA JENELLE" FROM THE DEMISED PREMISES AND RESTORATION OF THE PROPERTY AND SUBJECT TO MAINTENANCE DURING THE TERM OF THE LEASE OF PUBLIC LIABILITY INSURANCE OF \$300,000/\$600,000 FOR PERSONAL INJURY AND \$100,000 FOR PROPERTY DAMAGE, SUBJECT TO THE FOLLOWING CONDITIONS:
  - A. ON OR BEFORE MARCH 3, 1972, THE LEASE MUST BE SIGNED BY CLARITA VALLEY SALVAGE, INC., AND ALL OTHER PREREQUISITES TO THE LEASE MUST BE MET;
  - B. SATISFACTORY ARRANGEMENTS FOR ACCESS AND THE METHOD OF SALVAGING THE SHIP MUST BE MADE WITH THE NAVY AND WITH THE COUNTY OF VENTURA.
3. IF THE CONDITIONS IN NO. 2 ABOVE ARE NOT MET BY MARCH 3, 1972, THE COMMISSION AUTHORIZES THE FOLLOWING ACTION:
  - A. FINDS THAT THERE HAS BEEN UNREASONABLE DELAY IN REMOVING THE VESSEL "SS LA JENELLE" FROM STATE-OWNED TIDE AND SUBMERGED LANDS; AND
  - B. AUTHORIZES 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. AUTHORIZES 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. AUTHORIZES 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; AND
- E. AUTHORIZES THE EXECUTIVE OFFICER TO TAKE THE FOLLOWING SECURITY MEASURES:
- (1) POSTING OF SIGNS;
  - (2) REPAIRING FENCES;
  - (3) NEGOTIATING FOR DAWN-TO-DUSK SECURITY PATROL.

Attachment:

Calendar Item 13 (3 pages)

CALENDAR ITEM

2/72  
W 2880.31  
FDU

13.

FOUR-MONTH LEASE

APPLICANT (Assignor):

Clarita Valley Salvage, Inc.

LOCATION:

A 16-acre parcel of tide and submerged land at Port Hueneme, Ventura County.

LAND USE:

Dismantle and remove vessel "La Jenelle".

TERMS OF PROPOSED LEASE:

Initial period: 4 months, from January 1, 1972, to April 30, 1972

Renewal options: 6 additional periods of 1 month each.

Surety bond: None.

Public liability insurance:

\$300,000/\$600,000 for personal injury.

Consideration: Removal of ship and restoration of property.

BACKGROUND:

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 (PRC 4539.9) 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. The lease from the State expired January 1, 1972, with almost the entire vessel still in place on the beach. Beginning in December 1971, Clarita started making some visible progress in dismantling and removing the ship. Continued progress demonstrates the good faith of Clarita, and a lease from the State is necessary to continue occupying the tide and submerged lands during salvage operations.

EXHIBITS:

A. Land description.

B. Location map.

CALENDAR ITEM 13. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT, IN ACCORDANCE WITH ENVIRONMENTAL IMPACT REPORT NO. 42 ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, A LEASE AS RECOMMENDED HEREIN WILL NOT HAVE A SIGNIFICANT DEIRIMENTAL ENVIRONMENTAL EFFECT.
2. AUTHORIZE THE ISSUANCE TO CLARITA VALLEY SALVAGE, INC., OF A FOUR-MONTH LEASE FROM JANUARY 1, 1972, TO APRIL 30, 1972, IN CONSIDERATION OF THE REMOVAL OF THE SHIP FROM THE DEMISED PREMISES AND RESTORATION OF THE PROPERTY. THE TERM OF THE LEASE IS TO BE SUBJECT TO MAINTENANCE OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$300,000/\$600,000 FOR PERSONAL INJURY AND \$100,000 FOR PROPERTY DAMAGE.

Attachment: Exhibit "A"

EXHIBIT "A"

A parcel of tidelands and submerged lands in the Pacific Ocean partly within the City of Port Hueneme and partly within unincorporated territory, Ventura County, California, more particularly described as follows:

BEGINNING at a point on that certain course connecting Station 46 and Station 47 as shown upon Sheets 5 and 6 of 10 of the map entitled "Plat of the Ordinary High Water Mark", recorded June 3, 1964, in Book 28, pages 76 through 85, Records of Survey, Ventura County records, distant thereon N. 33° 42' 28" W., 230 feet from said Station 46; thence from said point of beginning:

S. 56° 17' 32" W., 500.00 feet; thence  
 S. 25° 19' 42" W., 570.82 feet; thence  
 S. 33° 42' 28" E., 400.00 feet; thence  
 S. 65° 38' 25" E., 347.47 feet to Station  
 "STRAND" as shown upon said map; thence  
 N. 34° 20' 00" E., 365.00 feet; thence  
 N. 05° 18' 40" E., 403.07 feet; thence  
 N. 41° 57' 36" E., 295.00 feet to a point

on that certain course connecting Station 45 and Station 46 on said map, distant thereon S. 48° 02' 24" E., 250 feet from Station 46; thence N. 48° 02' 24" W., 250 feet to said Station 46; thence N. 33° 42' 28" W., 230 feet to the point of beginning.

Containing 16 acres more or less.