

21. AUTHORIZATION FOR STAFF TO FILE A NOTICE, PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, TO PROMULGATE REGULATIONS REGARDING THE COMMISSION'S INTERIM LEASE RENTAL RATES - W 5125.

During consideration of Calendar Item 19 attached, Mr. E. N. Gladish, Executive Officer, State Lands Commission, indicated that the staff had encountered some possible legal problems concerning adopting the emergency regulations concerning the Commission's rental rates and expense and processing fees. Therefore, in lieu of adopting the emergency regulations, Mr. Gladish requested the Commission to authorize the staff to file a notice under the Administrative Procedures Act to promulgate the regulations.

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

THE COMMISSION AUTHORIZED THE STAFF TO FILE A NOTICE, PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, TO PROMULGATE REGULATIONS SET FORTH IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF HAVING TO DO WITH THE COMMISSION'S RENTAL RATES AND EXPENSE AND PROCESSING FEES.

Attachment:

Calendar Item 19 (21 pages)

EMERGENCY AMENDMENT TO THE COMMISSION'S REGULATIONS
IN 2 CAL. ADM. CODE 2005 REGARDING INTERIM LEASE RENTAL

The Commission last reviewed and approved its present rental rate of 6 percent per annum of the appraised land value at its meeting in May 1969. During the ensuing 5-year period, the economy has experienced increasing inflation which has resulted in historically high interest and yield rates. Accordingly, the Division has conducted a review and study of the present rental rate to determine if it is in line with today's fair market rentals.

The review consisted of written contacts with both governmental and private holders of land, including: All members of the Western States Lands Commissioners Association; various ports and harbor districts on the West and Gulf Coasts; other State agencies, including Department of General Services and the State Board of Equalization; most counties throughout the State; private companies, including Southern Pacific Land Company, Pacific Gas and Electric Company, etc.; Federal government agencies, including the Bureau of Land Management, United States Forest Service, and U. S. Army Corps of Engineers. In addition, the Division visited the Federal Reserve District Bank and the Regional Headquarters of a large banking institution in San Francisco.

An analysis of the data received from those who responded reveals that the Commission's program of land leasing is generally far in advance of most extensive land administering entities. Most of the agencies contacted did have programs for grazing and agricultural land leases; but few had an on-going program of tide and submerged land leasing.

The information received from other agencies was of little positive aid in the review; therefore, contact was made with financial institutions concerning "market" land rentals. The Division's analysis of the data gathered, and the interviews with commercial lenders and investors concluded that the Commission's rental rate cannot be directly tied to any one economic indicator.

One major lending institution suggested that the yield on new issues of AAA Utility Bonds could be considered an indicator of a reasonable land rental rate. It was reasoned that since utility companies were heavily involved with fixed asset management and the Commission is also involved with fixed asset management (land), the yield (rent) to the State for use of its land might reasonably be comparable to the utility companies long-term cost of money. The latest economic data available to Division staff indicates that new issues of AAA utilities are selling to return a 10+ percent yield. Inasmuch as these securities reflect degrees of risk and management components not necessarily associated with Commission leasing operations, Division staff considers the yield on these securities to be of less importance. As an indicator, however, it is one of many examined.

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The yield on intermediate term government securities (3-5 year issues) were also examined during the Division's review. These securities are currently yielding approximately 8.5 percent per annum; and reflect little risk as an investment. These are a preferred basis for the Commission's yield (rental) rate because of their liquidity and safety, thus meeting the criteria for a "safe rate" component of a conservative capitalization rate. The Commission's leases also provide for re-evaluation at 5-year intervals.

The Consumer Price and Wholesale Price indices were also analyzed as of June 1974. The two indices have increased 32 percent and 46 percent, respectively, since 1969. The Division is aware of some dramatic increases in these indices over the last few months, which indicates a near 40-50 percent increase over the past 5 years. These indices are not normally used in determining return rates for land (except for those transactions where the Division has received written acceptance of lease terms and conditions prior to that date).

As a result of the Division's data analysis and discussion with other State agencies, Division staff recommends that the Commission adopt an interim rental rate of 8 percent to become effective with leases approved by the Commission after January 1, 1975.

The staff is seeking proposals from consulting firms to provide additional analysis to supplement the staff's work. It is expected that the results of this study will be available by the end of January and can be incorporated in a final rental rate.

The staff investigation indicates that in addition to revision of rental rates, a revision of fixed rentals and expense fees are in order. These revisions are contained in Exhibit "A".

As a result of the foregoing, it is recommended that the Commission's regulations be amended on an interim emergency basis in order to reflect the changes in the Commission's rental rate. Accordingly, the Division recommends:

1. Finding that an emergency, within the meaning of Section 11421(b) of the Administrative Procedure Act (A.P.A.) exists;
2. Adoption, on an emergency basis, of the Amendments to Regulations attached as Exhibit "A" and filing same as required by A.P.A.; and
3. Authorization for the Division to undertake, pursuant to the regular procedures in the A.P.A., the steps necessary, including publication and mailing, to adopt within 120 days permanent regulations.

Section 11421(b) of the A.P.A. allows emergency procedures when necessary for the immediate preservation of the general welfare. The facts constituting an emergency within this meaning of the A.P.A. are as follows:

During the time provided by the A.P.A. for the enactment of regulations, the State could lose substantial sums of rental income produced from land leasing. It is incumbent on the Commission to insure that the State receive a fair rent for use of its land.

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EXHIBIT: A. Amendments to 2 Cal. Adm. Code, Articles 1 and 2.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT AN EMERGENCY EXISTS WITHIN THE MEANING OF SECTION 11421(b) OF THE ADMINISTRATIVE PROCEDURE ACT RELATIVE TO CHANGES IN THE COMMISSION'S RULES AND REGULATIONS.
2. ADOPT, UNDER SUCH EMERGENCY FINDING, THE PROPOSED CHANGES IN REGULATIONS SET FORTH IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, HAVING TO DO WITH THE COMMISSION'S RENTAL RATE AND EXPENSE AND PROCESSING FEES. PROVIDED, THAT SAID CHANGES IN REGULATIONS SHALL NOT APPLY TO ON-GOING TRANSACTIONS WHERE THE DIVISION HAS RECEIVED WRITTEN ACCEPTANCE OF LEASE TERMS AND CONDITIONS PRIOR TO THE EFFECTIVE DATE OF THE CHANGES.
3. DETERMINE THAT THERE ARE NO NEW COSTS TO LOCAL GOVERNMENT, PURSUANT TO SECTION 2231 OF THE REVENUE AND TAXATION CODE.
4. AUTHORIZE THE DIVISION TO TAKE SUCH STEPS AS MAY BE NECESSARY AND APPROPRIATE, INCLUDING PUBLICATION AND MAILING, TO MAKE PERMANENT SAID CHANGES IN RULES AND REGULATIONS, COVERING THE COMMISSION'S RENTAL RATE.

Attachment: Exhibit "A"

ARTICLE 1.

GENERAL PROVISIONS

1900. OPERATING AND ADMINISTRATIVE AGENCY.

The State Lands Division is the operating and administrative agency of the State Lands Commission and shall perform such duties and functions as may be directed by the Commission.

NOTE: Authority cited for Articles 1 through 6: Division VI (Sections 6103, 6104, 6105, 6106, 6108, 6216, 6218, 6301, 6321, 6321.2, 6322, 6501, 6501.1, 6501.2, 6502, 6503, 6504, 6812, 6815, 6828, 6829, 6830, 6831, 6873, 6891, 6897, 6900, 6963, 6992, 7301, 7356, 7361, 7410, 7413, 7416, 7417, 7501, 7601, 7701, 7702, 7703, 7704, 7705, and 7706), Public Resources Code.

Authority cited for Article 7: Section 126, Government Code.

1901. DEFINITIONS.

As used in this chapter unless the context otherwise requires:

- (a) The term "commission" means the State Lands Commission.
- (b) The term "applicant" includes any person who files an application under these rules.
- (c) The term "person" includes any individual, firm, co-partnership, company, business trust, association, private corporation, municipal corporation, public or quasi-public corporation, county, city and county, district, political subdivision, department or other instrumentality of government.
- (d) The term "inspector" means any employee of the State Lands Division duly authorized to act in that capacity.
- (e) The term "lease" includes a permit, right-of-way, easement or license.
- (f) The term "structure" means any construction works, including, but not limited to derricks, pipe lines, lines for the transmission and distribution of electricity, telephone lines, wharves, piers, slips, and warehouses; also units designed to act as groins, jetties, seawalls, breakwaters, or bulkheads.
- (g) The term "submerged lands" means the area lying below the elevation of low water in the beds of all tidal and of nontidal navigable waters.

(h) The term "tidelands" means the area lying between the elevation of low water and high water.

(i) The term "uplands" includes all other classes of land which are neither submerged lands nor tidelands, excluding school lands.

1902. APPLICATION REQUIREMENTS.

(a) Among other requirements the following must be met by any applicant or bidder for the purchase of state school lands, swamp and overflowed lands, or vacant United States lands: Applicants must be:

(1) Persons or associations of persons who are citizens of the United States or who have filed a declaration of their intention to becoming such; or

(2) Any corporation 90 per cent or more of the shares of which are owned by persons eligible to purchase lands or to hold a lease or permit under subdivision (1) of this subsection (a); or any corporation 90 per cent of the shares of which are owned either by a corporation eligible to purchase lands or to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

(b) Applications or bids to purchase lands by corporations must be made in the name of the purchaser, subscribed and sworn to by the authorized officer thereof, whose authorization must accompany the application. The seal of the applicant or bidder, if any, must be affixed.

(c) Applications for the purchase or lease of state lands by the United States or any agency thereof, by the State of California or any agency thereof, or by local agencies of the state including county, city and county, city, district, or other public agency of the state, are excepted from compliance with subsections (a) and (d) of this section.

(d) Applications for a geological or geophysical survey permit, including core-drilling permits, or a request under the provisions of Section 6871.3 of the Public Resources Code that lands be offered for bidding for an oil and gas lease, or applications for permits to prospect for minerals other than oil or gas, or for the leasing, or use, or occupancy under a permit or easement, of any lands under the jurisdiction of the commission, may be made only by the following:

(1) Persons or associations of persons who are citizens of the United States or who have declared their intention of becoming such, or who are citizens of any country, dependency, colony, or province, the laws, customs, and regulations of which permit the grant of similar or like privileges to the citizens of the United States.

(2) Any corporation or corporations organized and existing under and by virtue of the laws of the United States or of any state or territory thereof; or any corporation or corporations 90 per cent or more of the shares of which are owned by persons eligible to hold a lease,

or permit under subdivision (1) or (3) of this subsection (d); or any corporation or corporations 90 per cent or more of the shares of which are owned either by a corporation eligible to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

(3) Any alien person entitled thereto by virtue of any treaty between the United States and the nation or country of which the alien person is a citizen or subject.

(e) Applications may not be received for oil and gas leases or non-preferential leases for other minerals. Such leases may be issued only pursuant to proceedings initiated by the commission. (See Section 2100 hereof.)

(f) In every case of joint bidding, the names of all persons, firms, or corporations interested in a particular joint bid shall be specified.

(g) Other requirements for applications are specified in the separate articles hereof.

1903. MISCELLANEOUS FEE SCHEDULE.

(a) Except as may otherwise be provided for by law, fees of the Commission shall be charged according to the following schedule:

| | |
|--|---------|
| (1) Filing fees as required by Sections 6502 and 7706 of the Public Resources Code | \$25.00 |
| (2) Certificates of Purchase or duplicates thereof | 6.00 |
| (3) Patents and certified copies of records thereof | 10.00 |
| (4) Certification of contested case to superior court | 20.00 |
| (5) Certification of copies of documents | 1.00 |
| (6) Charges for other Commission services shall be based on costs. | |

1903.1 COMMISSION COSTS AND EXPENSES.

~~(a)~~ Except as may otherwise be provided by law, **cost** and expenses of the Commission incurred in processing an application for **land, or for Commission action of any kind**, shall be chargeable as ~~follows~~ provided by the separate Articles hereof.

- ~~(1) An applicant for a lease under Article 2 shall not be charged for such costs and expenses.~~
- ~~(2) Other applicants shall be charged for such costs and expenses as provided by the separate Articles hereof.~~

1903.2. EXPENSE FEES AND DEPOSITS.

(a) In those instances where Commission costs and expenses are chargeable to the applicant, the applicant shall, at the time of filing the application, deposit ~~an expense~~ a minimum expense fee or expense deposit with the Commission in an amount ~~based on such costs and expenses~~, as prescribed in separate articles hereof.

(b) Should ~~the~~ an expense deposit be insufficient to cover ~~such~~ the Commission's costs and expenses, an additional expense deposit, sufficient for such purpose, shall be made by applicant from time to time, within ~~20~~ 21 days after written notice of the amount thereof and demand therefor shall have been mailed to the applicant at the address of applicant supplied to the Commission by applicant. Should applicant fail to make such additional expense deposit with the Commission, the application may be cancelled without further notice.

(c) The Commission shall be entitled to apply ~~such~~ an expense deposit or fee, or any portion thereof, to the costs and expenses chargeable to applicant. Any unexpended portion thereof shall be refunded to applicant.

1904. GUARANTY DEPOSITS - BOND OR CASH.

The Commission may require deposits of either bond or cash to insure compliance with terms and conditions of bids, leases, or any other agreements.

1905. OFFICE OF COMMISSION.

The principal office of the Commission and of the State Lands Division is ~~California State Building, 217 West First Street, Los Angeles~~ 1807 13th Street, Sacramento, California 95814. Except as otherwise specified hereinafter, all applications shall be addressed to the principal office.

1906. MEETINGS AND APPEARANCES BEFORE COMMISSION.

(a) The Commission shall meet at ~~its principal office~~ Sacramento on the last Thursday of each month unless the date and place of meeting are, upon due notice, otherwise designated by at least two members.

(b) Business to be presented to the Commission shall be filed with the State Lands Division.

(c) Persons desiring to appear before the Commission should give notice of such intent at least 10 days before the next regular meeting date.

1907. RESERVATIONS.

(a) Whenever it appears that such action is in the public interest, the Commission may reject any application or bid or refuse to approve any work or to execute any lease or other instrument.

(b) The Commission reserves the right to deviate from the rules in this chapter whenever it determines that such deviation is in the public interest.

(c) The Commission may reject any application or bid if satisfactory evidence of ability to furnish all necessary sites and rights of way for all operations contemplated is not furnished or if the experience, equipment, or financial status of the applicant or bidder is not considered adequate by the Commission.

1908. BIDDING PROCEDURES.

(a) In cases where the law or these rules require that an award be made to the highest bidder, the commission shall cause notice of intention to receive bids to be published.

(b) The notice shall describe the lands offered, state the time for receiving and opening bids and indicate that forms for bidding may be obtained at an office of the commission. Such notice shall be published at least once in a newspaper of general circulation in the county in which the lands are situated and may be published at least once in a newspaper of general circulation in the City of Los Angeles, or San Francisco, or Sacramento.

(c) At the time and place specified in the notice, the sealed bids shall be opened publicly and an award shall be made to the highest qualified bidder unless, in the opinion of the commission, the acceptance of the highest qualified bid is not for the best interests of the State, in which event the commission may reject all bids. Thereupon, new bids may be called for or the commission may refuse to call for new bids until a new application is made and a new deposit to cover the costs of advertising is deposited with the commission.

(d) Not later than 15 days after receipt of written notice of the award, except as otherwise provided in Article 5, Section 2302(e), a successful bidder shall pay the first annual rental or other consideration as required and execute and deliver any required documents to the commission.

1909. EXECUTION AND DELIVERY OF DOCUMENTS.

(a) The commission may execute, seal and deliver, any instrument in such manner and form as it deems appropriate to accomplish the desired purposes but no such instrument in whatever form shall be construed as conveying a fee title to tide or submerged lands owned by the State.

(b) Such instrument shall be signed by the applicant and attested or witnessed prior to its execution and delivery by or at the direction of the commission.

1910. INSPECTIONS.

Inspection of books, records, and accounts pertaining to leases, and of areas under lease and facilities thereon, may be made by inspectors of the State Lands Division. Lessees shall provide means of access and other safe and reasonable facilities enabling the inspector to make inspections, but such inspections shall not relieve the lessees of full responsibility to discharge their lease obligations.

1911. LIABILITY.

Each lessee shall be liable for and shall agree to indemnify the State against any loss, damage, claim, demand or action, caused by, arising out of, or connected with the construction or maintenance of structures upon the leased premises, or other use by the lessee and/or agents thereof.

(Article 1)

1912. REMITTANCES.

Remittances to cover fees, rentals, or other payments shall be by cash, cashier's or certified check, postal money order, or personal check subject to collection.

1913. JOINT BIDDING.

In every case of joint bidding the names of all persons, firms or corporations interested in a particular joint bid shall be specified.

If a general or limited partnership shall join in the making of a joint bid, in addition to the specification of the name of such partnership, the names and addresses of the general partners responsible for the terms of the lease shall accompany the bid.

In the case of a corporation joining in a bid, the names of the president, vice-president, secretary, assistant secretary, other officer, attorney-in-fact or agent authorized to enter into contracts for the corporation, the location of the corporation's principal office, and the state of incorporation of the corporation shall accompany the bid.

All persons, firms, or corporations who will participate in management, operation or control under the joint bid shall be specified in the bid. Others, need not be specified.

Nothing herein contained shall be construed to permit a prospecting permit or lease, or any interest therein, to be held by any person not qualified under Public Resources Code Section 6801(a), (b) and (c).

1914. BIDDING BY PARTNERSHIP.

In the event of submittal of a bid by a partnership, either jointly or individually, except for the purpose of purchasing school land, swamp and overflowed land, and vacant United States land, the bidder or bidders shall submit a sworn statement with the bid, in the form of an affidavit, that each and every limited partner is duly qualified under Section 6801 of the Public Resources Code.

DRAFT OF PROPOSED AMENDMENT

ARTICLE 2.

LEASING OR OTHER USE OF LANDS

2000. GENERAL.

(a) This Article applies to leases of lands for all uses except for the prospecting for or extraction of minerals, including oil and gas, and geothermal resources. Rules for operations under leases for the extraction of oil and gas or other hydrocarbons are to be found in Article 3 and those for mineral extraction leases are set forth in Article 4. All authorizations for use granted pursuant to this Article are subject to the right of the State to grant separate leases for the extraction of minerals, including oil or gas, and geothermal resources, from the lands involved or for other uses not incompatible with the original lease. Leases granted under this Article are classified according to the lease purposes as follows:

(1) COMMERCIAL LEASE: Income-producing enterprises, including, but not limited to private marinas, restaurants, clubhouses, amusements, fishing piers, helicopter decks, service stations, mooring sites, buoys, watercraft rental, and water skiing; and other income-producing enterprises except those described under Minor Commercial Leases, below.

(2) MINOR COMMERCIAL LEASE: Small income-producing enterprises grossing less than \$5,000 per annum.

(3) INDUSTRIAL LEASE: Wharves, piers, stowage sites, dolphins, moorings, man-made or other islands, and similar uses.

(4) RIGHTS OF WAY: Power lines, pipelines and conduits, private bridges and access structures, roadways requiring monetary consideration, communications, and similar uses.

(5) PUBLIC AGENCY LEASE: Marinas, recreational piers, concessionaires, boating facilities - fee charged to public, income producing leases, and other similar leases to public agencies.

(6) NONCOMMERCIAL LEASE: Inclusive of, but not necessarily limited to subdivisions, clubs, associations, organizations not using land to produce direct income, and for accommodation piers, boathouses, floats, dwellings, cabins, arks, and other leases of the same nature.

(7) USE PERMIT. Noncommercial and nonindustrial use by a natural person or persons of a minimum pier, dock, buoy, or float of an area of State lands no greater than 3,000 square feet.

(8) GRAZING OR AGRICULTURAL LEASE: Livestock, silviculture, seasonal crops, and other agricultural purposes.

(9) PUBLIC AGENCY PERMIT: Public bridge, public roads, water lines, outfall lines, sewer lines, recreational structures, and other similar uses by public agencies.

(10) PROTECTIVE STRUCTURE PERMIT: This category includes permits granted under the authority of Section 6321 of the Public Resources Code, including groins, jetties, seawalls, bulkheads, breakwaters, and other similar uses.

(11) PRIVATE RECREATIONAL PIER PERMIT: This category includes permits granted pursuant to the provisions of Section 6503 of the Public Resources Code.

(12) EXPLORATORY OR SALVAGE PERMIT: This category includes permits granted pursuant to the provisions of Section 6309 of the Public Resources Code.

(b) Applications for leases under this Article ~~of land located in the counties of Mono, Inyo, San Luis Obispo, Kern, Santa Barbara, San Bernardino~~

~~Ventura, Los Angeles, Riverside, San Diego, Orange and Imperial shall be filed with the State Lands Division, Los Angeles, California 90012.~~

Applications for leases of lands outside said counties shall be filed with the State Lands Division, Sacramento California 95814.

(c) Priorities of applications shall be as provided in Section 6223 of the Public Resources Code.

~~(d) The initial minimum expense deposits for permits within the purview of Section 6321 of the Public Resources Code shall be \$150.00.~~

(d) Leases under this Article, or renewals of existing leases to the extent of the terms and conditions of such leases being renewed do not otherwise provide, shall be governed by the rules and regulations of the Commission, as set forth in Title 2, Division 3, of the California Administrative Code, as such rules and regulations may be in effect on the date of Commission approval and authorization to execute the lease or renewal.

2001. GROINS, JETTIES, ETC.

(a) Authority to construct or maintain groins, jetties, seawalls, breakwaters or bulkheads may be granted to public bodies of the State, or to a littoral owner or licensee of such littoral owner.

(b) The Commission reserves the right to revoke any authorization issued under this section, when in its judgment, it is to the best interest of the public ~~ex-ter-ae~~ to do so.

2002. LESSEES.

(a) Leases to occupy tidelands and submerged lands may be granted to the littoral owner or to others with the consent of such littoral owners or to public bodies of the State, however, such lands may, consistent with development and utilization to the maximum economic potential, consistent with the legal rights of the littoral owner, be leased to the best qualified applicants, as 1177

determined by the Commission, whether or not the applicant be the littoral owner. The Commission may advertise and invite bids where in its judgment it is in the best interests of the State.

(b) Leases of other State lands under this article may be issued to qualified applicants.

2003. APPLICATION REQUIREMENTS.

Information requirements upon lease applications and minimum qualifications of applicants shall be prescribed by the State Lands Division, not inconsistent with law and the rules of the Commission.

2004. DURATION OF LEASES.

The term of any lease granted hereunder shall be for the period deemed by the Commission to be in the best interests of the State as set forth in the following schedule, ~~except, however, that upon a special finding of the~~ Commission that a term in excess of that specified below is in the best interests of the State, the term may be so extended in excess of said schedule where otherwise permitted by law, but in no event shall the term of any lease exceed 66 years. In no event, however, shall a lease be issued for a longer term than that provided by law. The schedule of lease terms is as follows, including optional renewal periods:

| | |
|-----------------------------------|-------------------------------|
| (a) Commercial lease | Not to exceed 49 years |
| (b) <u>Minor Commercial lease</u> | <u>Not to exceed 10 years</u> |
| (c) Industrial lease | Not to exceed 49 years |
| (d) Rights of Way | Not to exceed 49 years |
| (e) Public Agency lease | Not to exceed 49 years |

(f) Noncommercial lease

(1) Dwelling, cabin and ark sites (except as provided by Public Resources Code Section 6505.5).

Not to exceed 10 years

(2) Other

Not to exceed 49 years

(g) Use Permit

Not to exceed 5 years

(h) Grazing or Agricultural lease

(1) Livestock (See Public Resources Code Section 6505.5).

Not to exceed 10 years

(2) Seasonal crops

Not to exceed 10 years

(3) Silviculture

Not to exceed 49 years

(i) Public Agency permit

Not to exceed 49 years

(j) Protective structure permit

Not to exceed 49 years

(k) Private recreational pier permit (See Public Resources Code Section 6503).

Not to exceed 10 years

(1) Salvage permit

Not to exceed 5 3 years

~~2005. PAYMENT OF RENTALS.~~ (Renumbered 2006)

2005. EXPENSE FEES.

(a) Applicants for the following leases and actions shall remit the minimum expense fee, in addition to any filing fee required by law, with their application pursuant to Section 1903.2:

| <u>Transaction</u> | <u>Minimum Nonrefundable Expense Fee</u> |
|--|--|
| <u>(1) Right of Way not providing a monetary rental</u> | <u>\$ 350</u> |
| <u>(2) Public Agency lease</u> | <u>\$ 400</u> |
| <u>(3) Public Agency Permit</u> | <u>\$ 325</u> |
| <u>(4) Protective Structure permit not providing monetary rental</u> | <u>\$ 300</u> |

- | | | |
|------|---|---------|
| (5) | <u>Recreational Pier permit as authorized by Public Resources Code Section 6503</u> | \$ 250 |
| (6) | <u>Assignment of a lease</u> | \$ 300 |
| (7) | <u>Amendment of a lease which does not increase the rental</u> | \$ 375 |
| (8) | <u>Approval of sublease under this Article not resulting in monetary payment to the State</u> | \$ 300 |
| (9) | <u>Boundary line agreement not having a Statewide public benefit</u> | \$2,000 |
| (10) | <u>Land exchange not having a Statewide public benefit</u> | \$2,500 |

(b) The above fees are the minimum necessary to reimburse the Commission for the cost to process typical, uncomplicated transactions. If the amount proves to be insufficient due to unusual complexities or for other purposes, additional funds will be requested. If the funds are not received within 21 days, the transaction will be terminated on the grounds of default.

2006. PAYMENT OF RENTALS.

(a) Amount: Leases executed pursuant to this article shall contain provisions for the payment of rental based ~~on~~ upon the rates established by the following schedule in fixed sums or in sums based in whole or in part on gross income, or for such other consideration as, in the judgment of the Commission, may be in the best interests of the State.

(b) Rental Rate Schedule: Rental rates shall be computed at the rate of ~~6%~~ 8% per annum of the appraised value of the leased land, provided, however, that the following rates shall apply to the classifications listed below:

(1) Commercial leases, and industrial leases: A percentage, determined by appraisal, of annual gross income, or ~~6% per annum~~ 8% per annum of the appraised value of the leased land, whichever is greater, with a ~~\$300~~ \$450 minimum annual rental.

(2) Use Permits: A fixed rental of ~~\$50~~ \$75 per annum for areas of up to 1,000 square feet, or less, and ~~\$75~~ \$100 per annum for areas of 1,000 square feet to 3,000 square feet.

(3) Grazing and Agricultural leases: Rental based on appraisal for the use intended.

(4) Exploratory and Salvage Permits: Rentals shall be based on ~~salvage value~~ \$1.00 per year per acre plus Rental-equivalent to 25% of net salvage value of \$25,000.00 or less; ~~rental shall be in the amount of~~ and 50% of the net salvage value in excess of \$25,000.00.

(5) Public Agency leases and permits: Leases of State land to public agencies shall provide for fair monetary rental, or such consideration as the Commission determines to be in the best interests of the State.

(6) Right of Way: ~~6%~~ 8% of the appraised land value, together with damages, if any, except that rental rates for rights of way for pipeline and conduit purposes shall be at the rate of one and one-half cent per diameter inch per lineal foot. Minimum rental shall be ~~\$20~~ \$100 per annum.

(7) Protective Structure permits: ~~6%~~ 8% of the appraised land value; however, with consideration for Statewide public benefits, if any.

(8) Noncommercial leases and Minor commercial leases:

~~6% per annum~~ 8% of the appraised land value, with a ~~\$150.00~~ \$225.00 minimum annual rental, except for ~~\$65.00~~ \$100.00 minimum annual rental for dwelling, cabin and ark sites.

(9) Anything herein to the contrary notwithstanding, it is the policy of the Commission that rental rates, other than fees and minimum rentals, for comparable Commission leases within a competitive area be substantially equal, and that required adjustments of lease rental rates be made so as to avoid unreasonable rental rate discrimination. Rental rates may be established to reflect such equalization of rental rates, however, with provisions for periodic updating leading to uniformity of all rental rates for such leases within the area based on a fair market rental. Any such adjustment of rental rate shall be specifically noted in the Commission records at the time of its approval of such leases.

(d) Rentals subject to Law: In cases where leases are exempted from rental by law or if rates are particularly controlled or established by law, rental charges shall be governed by such law.

(e) Other Consideration: The Commission reserves the right to grant leases for such other considerations as may be deemed by the Commission to be in the best interests of the State.

(f) Review: Leases may contain provisions which provide for review of rental rates, at intervals as the Commission may require. Such leases shall provide that any new rental rate shall be effective upon reasonable notice to the lessee as more specifically set forth in the lease.

(g) Time of Payment:

~~(1) -- Where the annual rental for any period is \$50 or less, the total rental for such period shall be paid in advance. Except as may otherwise be provided in the lease, rentals shall be payable annually as follows:~~

~~(2) -- In all other cases within the purview of this article,~~

The first year's rental shall be paid in advance; rentals for following years shall be paid not later than 15 days after the beginning of each such following year, provided, however, that rental under leases requiring computations to ascertain the rental rate may be paid in whole or in part at other times as specified in the lease.

(h) Interest on Retroactive Payments: In the event that, for purposes of lease renewal or extension, a lessee does not agree to an annual rental, as offered by the Commission at the expiration of the lease period, and the lessee remains in possession of the leased lands while continuing to pay interim rental until a firm rental is agreed upon by the parties, then at such time as lessee submits payment for any or all retroactive rentals, the lessee shall pay interest to the State on said retroactive payments at the legal rate in effect at the time of said retroactive payment.

2007. TERMINATION.

Leases for grazing or agricultural purposes may be terminated by the State Lands Division under the following conditions:

(a) Upon the sale of the leased premises: Under these conditions the lease shall terminate on the date of approval of sale by the Commission, except that when an application is filed by an actual settler to purchase land suitable for cultivation, the lease shall terminate on the date such application is filed.

(b) Upon the exchange of the leased premises for federal lands:

In such a case the lease shall terminate on the date the State designates the lands as bases for indemnity selections.

(c) Upon the surrender of a lease thus terminated the lessee shall receive a refund of the unearned rental, or, at the option of the lessee, a new lease shall be issued for the balance of the unexpired term covering any land described in the surrendered lease not disposed of by the State.

2008. REPAIR OF DAMAGED STRUCTURES.

Nothing in this article shall be construed to hinder or prevent the immediate repair or replacement of portions of damaged structures for which authorizations have been issued, provided such repair or replacement does not deviate materially from the approved plans of the structure. Prompt notice of intention to repair or replace portions of damaged structures shall be given the State Lands Division.

2009. MARKER.

Where required by the terms of any lease or authorization, there shall be installed on each structure, a substantial brass marker not less than 2½ inches in diameter inscribed "State Lands Commission (application file number), (structure letter), (type of structure)."

The marker will be installed under the direction of the State Lands Division; all cost involved shall be borne by the lessee.

2010. WARNING AND OWNERSHIP SIGNS.

Where required by the terms of any lease or authorization, ownership or warning signs and appropriate markers shall be installed and maintained to show the name and address of the owner or the location of partially or wholly submerged structures, if any. Such signs and markers shall conform to the requirements of the United States Coast Guard or other bodies having jurisdiction over navigation and safety.

2011. APPROVAL OF PLANS.

The Commission may approve or disapprove any plans submitted or authorize such action. Approval of plans shall be by endorsement thereon.

2012. CONSUMMATION OF LEASE.

(a) The Commission shall determine the term of occupancy, amount of rental and other consideration, and the amount of bond, if required; the Commission may then authorize the execution and delivery of the appropriate instrument permitting occupancy of the land for the approved purpose, subject to the payment and delivery of all fees, costs, bonds, rent or other consideration required by these rules.

(b) The effective date of the beginning of any lease shall be that of the date of authorization by the Commission unless specifically designated otherwise.

2013. EXTENT OF LEASED LAND.

Irrespective of the description of the land contained in any application, the land to be leased shall be as determined by the Commission.

2014. BONDS AND INSURANCE.

In addition to such bonds as may be required by law, the Commission may require such bonds and liability insurance as may be in the best interests of the State.

2015. ASSIGNMENTS AND SUBLEASING.

Leases shall not be assigned or sublet by the State's lessee without prior approval of the Commission. Payment to the State of at least one half the net rental or other consideration payable received by the sublessee State's lessee, in excess of a reasonable return to the sublessee for his investments in improvements, shall, among other things, constitute a requirement of such approval. Prior to approval of any assignment, the Lease Agreement shall be reviewed and the provisions thereof may be changed, altered or amended as deemed appropriate by the Commission.

2016. PROJECTION FROM SHORELINE.

The projection from a shoreline shall be normal to the general direction of the shoreline, or as the Commission may determine to be reasonable and proper, and in the best interests of the State.

2017. LEASE NOT REQUIRED.

A State Lands Commission lease is not required for the following land uses, provided that an adequate description of the land and proposed use thereof is provided for the records of the State Lands Division:

(a) Activities and projects of the Department of National Defense that are not personal or private in nature.

(b) Projects and activities of any agency of the Federal government that are solely for the enhancement or protection of navigation.

(c) Marker buoys and other aids to navigation.