

MINUTE ITEM

12/1/75
EPW

7. AMENDMENT OF COMMERCIAL LEASE PRC 2052; TIDE AND SUBMERGED LAND IN THE MOKELUMNE RIVER, SACRAMENTO COUNTY; ANONA DUNBAR PERRY, DBA PERRY'S BOAT HARBOR AND DRYDOCK COMPANY; W 20491.

During consideration of Calendar Item 7, attached, Mrs. Anona Dunbar Perry appeared to protest the amendment of her Commercial Lease. The amendment changed the amounts of public liability insurance, and Mrs. Perry felt these limits were too high. She also alleged that previous litigation would prevent the State from amending her lease.

The item was put over in order for the staff to review the effect of previous litigation between the Perry's and the State, concerning title to the subject property, and report back to the Commission at its next meeting.

Attachment:

Calendar Item 7 (4 pages)

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CALENDAR ITEM

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EPW
W 20491

7.

AMENDMENT OF COMMERCIAL LEASE PRC 2052

APPLICANT: Anona Dunbar Perry, dba Perry's Boat Harbor
and Drydock Company
P.O. Box 375
Isleton, California 95641

AREA, TYPE LAND AND LOCATION:
A 1.38-acre parcel of tide and submerged land in
the bed of the Mokelumne River, Sacramento County.

LAND USE: Boating Facility.

TERMS OF APPROVED LEASE:

Initial Period: 10 years from December 30, 1972.

Renewal Option: 1 successive period of 10 years.

Surety Bond: \$1,000.

Public Liability
Insurance: \$300,000/\$600,000 per occurrence
for bodily injury and \$100,000 for
property damage.

Consideration: \$345 per annum with the State
reserving the right to fix a
different rental on or before
December 30, 1975 and on each
fifth anniversary of the lease.

TERMS OF PROPOSED AMENDMENT:

Initial Period: 10 years from December 30, 1972.

Renewal Option: 1 successive period of 10 years.

Surety Bond: \$1,000.

Public Liability
Insurance: Combined single limit of \$300,000
per occurrence for bodily injury
and property damage.

CONSIDERATION:

\$345 per annum with the State reserving the right
to fix a different rental on April 27, 1976 and
on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:

\$250 per acre nominal rental for this type of lease.

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CALENDAR ITEM NO. 7. (CONTD)

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is owner of upland.

\$1,035 rent has been received for the period of December 30, 1972 to December 29, 1975.

STATUTORY AND OTHER REFERENCES:

- a. Public Resources Code: Div. 6, Parts 1 & 2.
- b. Administrative Code: Title 2, Div. 3,
Arts. 1, 2 & 10.

OTHER PERTINENT INFORMATION:

1. By State Lands Commission action of July 24, 1975, Calendar Item 17, page 85, the Commission approved the Renewal and Amendment of Lease PRC 2052 with the provision of Public Liability Insurance in amounts of \$300,000/\$600,000 per occurrence for bodily injury and \$100,000 for property damage. The lessee has since requested these limits be lowered as it has not been possible for them to obtain insurance in these amounts without undue expense. Lessee's insurance broker, James L. Maxwell, of Rio Vista, states that companies he represents will not write limits in excess of \$300,000.

The State Administrative Manual dated January, 1975, Section 1212.3, of Article 8, states in part:

"8. Contracts of a Hazardous Nature

Any contract of a hazardous nature, which may involve risk of injury or damage to persons or property, shall protect the State against liability by requiring the contractor to carry public liability insurance.

Contracts of a hazardous nature include, but are not limited to, those made for the following purposes: automobile or motorcycle races, rodeos, thrill shows or fireworks, elevator maintenance, and those let specifically for excavation or demolition work. The contract shall contain the following provisions:

"Contractor shall furnish to the State a certificate of insurance stating that there is liability insurance presently in effect for contractor with limits of bodily injury coverage of not less than \$100,000 per person and \$300,000 per occurrence and property damage limits of not less than \$50,000 per occurrence."

CALENDAR ITEM NO. 7. (CONTD)

"Major operations or ultra-hazardous operations are encouraged to carry insurance with higher limits."

Division staff is not aware of any factors that would cause this boating facility to be classified as a major operation or ultra-hazardous.

2. By State Lands Commission action, referenced in paragraph 1, above, the Commission approved \$345 per annum rent with the State reserving the right to fix a different rental on December 30, 1975. The nominal rent of \$250 per acre used as a basis of consideration in this area is not scheduled to expire until April 27, 1976.
3. An Environmental Impact Report is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907(a) which exempts an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation.

EXHIBITS: A. Land Description. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
2. AUTHORIZE THE ISSUANCE TO ANONA DUNBAR PERRY, DBA PERRY'S BOAT HARBOR AND DRYDOCK COMPANY OF AN AMENDMENT TO COMMERCIAL LEASE PRC 2052 CHANGING THE AMOUNTS OF PUBLIC LIABILITY INSURANCE FROM \$300,000/\$600,000 PER OCCURRENCE FOR BODILY INJURY AND \$100,000 FOR PROPERTY DAMAGE TO \$300,000 SINGLE LIMIT PER OCCURRENCE FOR BODILY INJURY AND \$50,000 FOR PROPERTY DAMAGE AND CHANGING THE DATE IN THE STATE'S RESERVATION TO FIX A DIFFERENT RENTAL ON DECEMBER 30, 1975 AND ON EACH FIFTH ANNIVERSARY OF THE LEASE, TO APRIL 27, 1976 AND ON EACH FIFTH ANNIVERSARY OF THE LEASE, WITH ALL OTHER TERMS AND CONDITIONS OF LEASE PRC 2052, AS AMENDED, TO REMAIN IN FULL FORCE AND EFFECT ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

W 20491

PARCEL 1:

Beginning at the point on the boundary common to the lands of B. F. and A. D. Perry, and the State of California which bears S 31° 06' 33" W 169.29 feet, S 61° 07' 15" E 3 feet, S 41° 25' W 446.04 feet and S 48° 35' E 65 feet from a point on the center line of Highway No. 12 at its intersection with the West end of the Mokelumne River State Highway Bridge, said west end being at Highway Station 320+24.51; thence continuing S 48° 35' E 30 feet; thence S 38° 46' W 428 feet; thence S 26° 25' W 180 feet; thence S 21° 57' W 438 feet; thence S 110 feet; thence S 29° 22' W 180 feet; thence S 23° 21' W 305 feet; thence S 10° W 220 feet; thence leaving said common boundary W 30.46 feet to the point which is 30 feet at right angles from the last aforementioned course; thence continuing northerly and northeasterly on lines parallel with and 30 feet at right angles from each of the aforementioned courses to the true point of beginning, containing 1.27 acres more or less.

PARCEL 2:

Beginning at a point on the boundary common to the lands of B. F. and A. D. Perry and the State of California which bears S 31° 06' 33" E 169.29 feet, S 61° 07' 15" E 385.11 feet, and S 34° 05' W 131.57 feet; thence along said aforementioned agreed boundary line S 50° 50' W 142 feet and S 28° 50' West 183 feet; thence N 38° 25' 43" E 319.12 feet containing 0.11 acres.

END OF DESCRIPTION