

MINUTE ITEM

This Calendar Item No. 46
was approved as Minute Item
No. 46 by the State Lands
Commission by a vote of 2
to 0 at its 12/29/84
meeting.

CALENDAR ITEM

A 58

45

S 37

11/29/84
BLA 137
Fossum
Taylor
S. Kaufmann

EXTENSION OF THE RIGHT OF ENTRY UNDER THE MAY 17, 1983 "AGREEMENT REGARDING THE SUNSET HARBOR STUDY" RELATING TO THE BOUNDARY SETTLEMENT AND LAND EXCHANGE AGREEMENT WITH SIGNAL COMPANIES, ORANGE COUNTY

In January 1973, the State entered into a settlement agreement with Signal Properties, Inc., (the "1973 Settlement Agreement") to resolve a title dispute concerning lands in the Bolsa Chica area, Orange County. Under the 1973 Agreement, the State Lands Commission received fee ownership to both a 300-acre parcel under lease and (now managed by the Department of Fish and Game as the Bolsa Chica Ecological Reserve) and a 27.5-acre parcel of adjoining land underlying Pacific Coast Highway. Additionally, the State obtained a lease to a 230-acre parcel contiguous to the 300-acre parcel, with the provision for conveyance of fee title to the State upon construction of an ocean entrance system by August 1987, providing there was an appropriation for that ocean entrance system by August 1983. In exchange, Signal received clear title to its private lands.

Thereafter, the Department of Fish and Game became the local sponsor of the Sunset Harbor Study undertaken by the Corps to determine the feasibility and desirability of a marina development and/or marsh and wetlands restoration in the Bolsa Chica area. The County of Orange has recently joined as a co-sponsor of that Study.

On May 17, 1983, the Department of Fish and Game, the State Lands Commission, Orange County, and Signal entered into the "Agreement Regarding the Sunset Harbor Study", to assist the Corps in completing the Study.

In the Study Agreement, as consideration for the State's continued support of the Study, the parties agreed to extend the option term for the 230-acre leased parcel and the appropriation and construction dates under the 1973 Agreement to 1987 and 1990, respectively, or for an additional three years to preserve the State's rights and option pending completion of the Study. This Amendment to the 1973 Agreement was approved by the State Lands Commission by Minute Item 26 at the Commission's May 31, 1983 meeting.

In addition, the parties agreed to cooperate in preparation of a joint environmental impact statement and impact report (EIS/EIR) in connection with the Corps Study. Along with that, reciprocal agreements were made in Paragraph II.B of the Study Agreement regarding entry to each parties' respective properties to facilitate studies needed to complete the joint EIS/EIR.

Paragraph II.B.7 of the Study Agreement provided for the termination of the entry provision by June 1, 1984.

The Corps Study has not yet been actively resumed, presumably because the Corps is awaiting the outcome of State proceedings on the Land Coastal Program Habitat Conservation Plan for the area. The right of entry provisions therefore, having already expired, need to be extended to reasonably enable them to be carried out prior to completion of the Corps Study.

The proposed letter extension confirms an extension of the entry provisions to the earlier of August 17, 1987 or the termination of the term of the Lease of Right of User and Option to Acquire Real Property (keyed to the 230-acre parcel). The August 17, 1987 date corresponds with the outside date the State now has by which to obtain an Appropriation for the ocean entrance system under the 1973 Agreement. Further, under the Study Agreement, the term of the Lease of Right to User may be terminated earlier than the August 17, 1987 date in the event the Corps Study is abandoned or terminated. Hence, the new entry in termination provision reflects that as well. The staff of the Commission and Office of the Attorney General believe it to be in the best interest of the State to agree to both the date and form of the extension agreement proposed.

CALENDAR ITEM NO. 46 (CONT'D)

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

AB 884: N/A.

EXHIBITS: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE AN AMENDMENT TO THE MAY 17, 1983 "AGREEMENT REGARDING THE SUNSET HARBOR STUDY", RELATING TO THE 1973 BOLSA CHICA BOUNDARY AND SETTLEMENT AGREEMENT, EXTENDING THE TIME PERIOD OF THE TERMINATION OF THE RIGHT OF ENTRY IN ARTICLE II.B.7 THERETO.
2. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO IMPLEMENT THE TERMS AND PROVISIONS OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, EXECUTING AN AGREEMENT EXTENDING THE PERIOD OF TIME RELATING TO THE EXTENSION OF THE RIGHT OF ENTRY UNDER THE "AGREEMENT REGARDING THE SUNSET HARBOR STUDY".
3. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.

