

MINUTE ITEM

This Calendar Item No. 24
was approved as Minute Item
No. 24 by the State Lands
Commission by a vote of 2
to 0 at its 5-9-88
meeting.

CALENDAR ITEM

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S 5, 6

24

05/09/88
PRC 7073
Martinez

CONSIDERATION TO CANCEL MINERAL EXTRACTION LEASE PRC 7073
FOR FAILURE TO COMPLY WITH HAZARD REMOVAL REQUIREMENT

LESSEE: Aggregate Transport Co., Inc.
P. O. Box 160086
Sacramento, California 95816

AGENT: John Grattan
Grattan/Gersick/Karp
1009 Fourteenth Street
Sacramento, California 95814

BACKGROUND INFORMATION:

On April 23, 1987, Lease PRC 7073 was issued to Aggregate Transport for two years, effective May 1, 1987. The lease was awarded pursuant to competitive bidding.

The lease called for removal of a navigational hazard located at the entrance to the Locks. Removal was to be accomplished within the first three months of the lease term. The deadline for removal was July 31, 1987.

On June 29, 1987, the Lessee had not begun removal of the hazard and was reminded of the requirement to remove it by July 31, 1987. At that time, the Lessee requested a 30-day extension of the hazard removal date to allow for approval of the project by the Central Valley Regional Water Quality Control Board on August 14, 1987. The Lessee anticipated at that time that all other required permits would be in hand during the month of July.

CALENDAR PAGE	<u>78</u>
MINUTE PAGE	<u>1472</u>

CALENDAR ITEM NO. 24 (CONT'D)

Staff granted the Lessee's request for an extension of 30 days. The Regional Water Quality Control Board permit was issued on August 14, 1987, but the Lessee had not obtained a permit from the City of West Sacramento. The City was hesitant to issue a permit because of potential impacts associated with transporting the material from the disposal site.

The lease bid package which addressed the disposal site that was environmentally approved for dumping but not for removal of material also stated that the bidder could use another spoils site provided it could be certified pursuant to the requirements of CEQA.

In its bid proposal, Aggregate Transport not only indicated that it intended to use the spoils site identified in the bid package and that it could obtain all necessary approvals, but also that as an alternative, it could use a site located at Harbor Sand and Gravel, 231 - 2nd Street, West Sacramento (APA# 12755-01-02). However, Lessee has made no attempt at any time to use this alternative site and, in fact, has now lost the right to use the site. Use of any other disposal site has not been secured.

Because the permit issued by the Department of Fish and Game authorizes the Lessee to perform dredging only from July 1 - September 30, the Lessee will not be able to dredge prior to the end of the first year of the lease.

The hazard remains in place and the Lessee is in default. Staff has initiated several discussions with the Lessee regarding possible options available for resolving the situation. To date, Lessee has not provided staff with any proposed plans for removing the hazard.

On January 21, 1988, the Commission approved the staff recommendation authorizing notification of default. The Notice, which was received by Aggregate Transport on January 25, 1988,

CALENDAR PAGE	78.1
MINUTE PAGE	1473

CALENDAR ITEM NO. 24 (CONT'D)

provided that failure to cure the default of the lease terms (specifically the removal of the navigational hazard during the first three months of the lease to attain a navigational depth) within 90 days of receipt of the Notice may cause cancellation of the lease. Since the notice of default was issued, staff has met with staff of the City of West Sacramento Planning Commission who confirmed that the City will deny all applications for a Conditional Use Permit authorizing the removal of material from the subject disposal site. It was also confirmed that the disposal site proposed as an alternate site in the Lessee's bid proposal was acquired by the City from the California Department of Transportation on October 21, 1987 and will not be used for any disposal of spoils. Thus, the lessee has lost his right to use the site for disposal of dredged material. Lessee has found no other sites to be available to him for disposal purposes.

The Lessee has questioned the existence of the navigational hazard described in the lease. The Corps of Engineers confirmed that the Locks have been closed since November 21, 1987. Therefore, staff believes the sandbar may not presently constitute a navigational hazard to traffic entering the Locks. However, it was also clarified by the Corps of Engineers that the Locks may again be opened if their use is requested and the operating costs are paid by the user.

It has been reported by staff of the Department of Water Resources Flood Management Section that the sandbar does constitute a hazard to traffic on the Sacramento River by contributing to the narrowing of the natural channel at an area frequented by recreational boaters because of its proximity to a public marina and boat ramp. The Corps of Engineers has confirmed that the sandbar is a naturally occurring hazard that has required periodic dredging in the past. However, the dredging program, under which the Corp has performed such dredging, is

CALENDAR ITEM NO.	GE	18.2
MINUTE PAGE		1474

CALENDAR ITEM NO. 24 (CONT'D)

no longer considered to be economically feasible.

Despite the fact that the sandbar will continue to remain a traffic hazard, staff believes that the Lessee was diligent and acting in good faith in pursuing his permit. Therefore, staff recommends that the lease be cancelled and that the Lessee be relieved of any payments due under the lease for the following reasons:

1. The City of West Sacramento will not issue a CUP for the primary dumpsite to the Lessee or any other applicant;
2. The City has acquired the Lessee's secondary site; and
3. The lessee has found no other sites to be available to him.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the 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 Guidelines.

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

2. The lease has a minimum annual royalty of \$30,000 due by May 25, 1988.
3. Pursuant to the requirements of the lease, a Letter of Credit from the Lessee in the amount of \$40,000 is on deposit in the State Controller's office.
4. The Lessee has also submitted \$5,000 as a deposit with his original bid.

AB 884:

N/A.

EXHIBITS:

- A. Site Map.
- B. Lease.

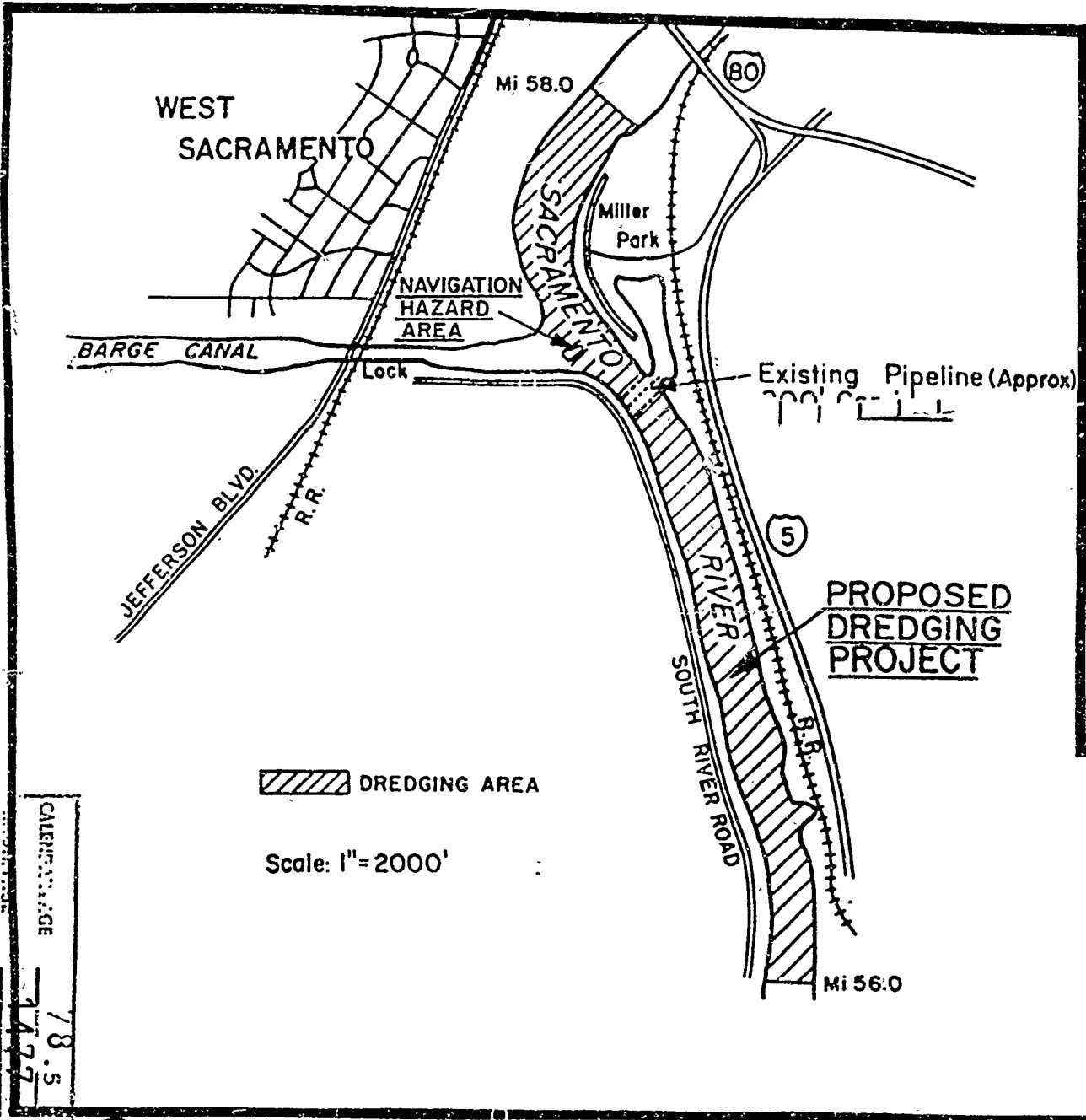
CALENDAR PAGE	78.3
MINUTE PAGE	1475

CALENDAR ITEM NO. 24 (CONT'D)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE 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.
2. DETERMINE THAT AGGREGATE TRANSPORT CO., INC. HAS FAILED TO REMOVE THE NAVIGATIONAL HAZARD IDENTIFIED IN SECTION 1, PARAGRAPH 3 AND IN EXHIBIT "A" OF THE LEASE DURING THE FIRST THREE MONTHS OF THE LEASE TO ATTAIN A NAVIGATIONAL DEPTH.
3. AUTHORIZE CANCELLATION OF MINERAL EXTRACTION LEASE PRC 7073 BECAUSE 1) THE LESSEE HAS BEEN UNABLE TO OBTAIN THE NECESSARY GOVERNMENTAL PERMITS FOR HIS PRIMARY SPOILS DUMP SITE; 2) HIS SECONDARY SPOILS DUMP SITE HAS BEEN PURCHASED AND IS NO LONGER AVAILABLE AND 3) NO OTHER SITES ARE NOW AVAILABLE TO THE LESSEE.
4. DETERMINE THAT THE LESSEE HAS MADE GOOD FAITH EFFORTS TO OBTAIN HIS PERMITS AND FAILED AND THEREFORE SHALL BE RELIEVED OF ANY PAYMENTS DUE UNDER THE LEASE.

CALIFORNIA	78.4
MINUTE PAGE	1476



 DREDGING AREA

Scale: 1" = 2000'

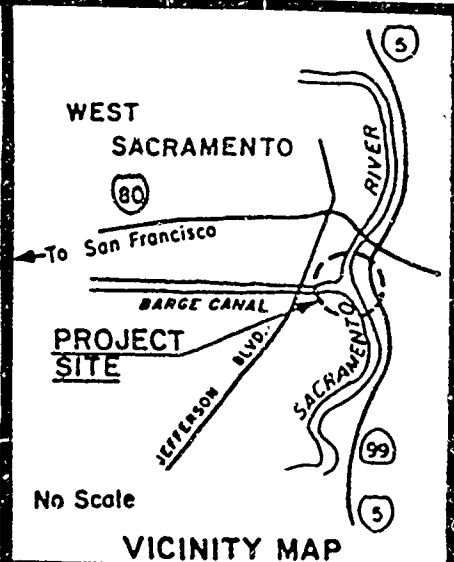


EXHIBIT "A"
MINERAL EXTRACTION LEASE
AGGREGATE TRANSPORTATION
CO., INC.
(APPLICANT)
 WP 7073
 SACRAMENTO RIVER
 SACRAMENTO/YOLC
 COUNTIES



CALIFORNIA
 78.5
 777



PROPOSED NEGATIVE DECLARATION

EIR NO

File Ref.: W 23328

SCH#:

Project Title: Dredging Permit With Commercial Disposal of Spoils.

Project Proponent: International Mineral Services, Ltd.

Project Location: Tide and submerged lands in the Sacramento River near Miller Park, Sacramento and Yolo Counties.

Project Description: Dredge a maximum 500,000 cubic yards of material annually for two years to improve navigation. The spoils will be placed on the adjacent upland Sacramento-Yolo Port District spoil site where it will be dried, processed and screened for commercial sale.

Contact Person: Linda Martinez
Dredging Coordinator

Telephone: (916) 322-6375

This document is prepared pursuant to the requirements of the California Environmental Quality Act (Section 21000 et seq., Public Resources Code), the State CEQA Guidelines (Section 15000 et seq., Title 14, California Administrative Code), and the State Lands Commission regulations (Section 2901 et seq., Title 2, California Administrative Code).

Based upon the attached Initial Study, it has been found that:

the project will not have a significant effect on the environment.

mitigation measures included in the project will avoid potentially significant effects.

CALCULATED PAGE	78.6
MINUTE PAGE	1478

COMMENTS TO INITIAL STUDY AND RESPONSES

California Regional Water Quality
Control Board - Central Valley Region

1. Comment:

What are the expected production rate and operation life figures. There is a discrepancy between those shown in the U. S. Army Corps of Engineers Notice and the application submitted to the Board. There is also a discrepancy between the area proposed for dredging shown in the Corps Notice and that submitted to the Board.

EPA Form No. 2c (for NPDES discharge) including discharge estimates in units of million gallons per day must be submitted to the Board.

Response:

An updated application has been submitted to the Board containing information consistent with the application submitted to the Corps and the State Lands Commission.

2. Comment:

Heavy metals and/or toxic compounds may be present in sediments along the proposed reach to be dredged. Supporting data and resulting conclusions as to the existence or absence of such contaminants should be submitted.

Response:

Four sand samples were taken from the proposed dredging area and submitted by the applicant to Skyline Labs for analysis. The report, which has been submitted to the Board, shows the sand to contain no abnormal levels of contaminants.

3. Comment:

Streambed disturbance and dredge return flows may cause increased turbidity levels in the River.

Response:

The sand will be removed from the river with a suction dredge which will minimize turbidity increases. All necessary precautions will be taken to see that the maximum increase in turbidity above background levels will not exceed 25 Formazin Turbidity Units measured down current from the dredge.

4. Comment:

Aquatic life or habitat may be adversely impacted by changes in water quality and riverbottom characteristics. Dredging operations may also impose a significant risk to aquatic life during periods of spawning and migration.

Response:

Only the sand that has been washed into the river will be removed down to the original riverbed. No water or dredgings will be discharged directly back into the river but will instead be piped to the disposal site where the sand will be dewatered. The water will be settled before being returned to the river. No treatments or additives will be placed into the river. The construction will be completed by the time construction imposed on the river and game through the

DATE	8.7
MINUTE PAGE	1479

5. Comment:

Changes in flow velocities and erosion/deposition rates may result from altering the geometry of the river channel.

Response:

Only the sand that has been washed in by flooding will be removed, thereby restoring the river channel to its designed geometry and improving its natural flow characteristics.

County of Sacramento

1. Comment:

The applicant should seek appropriate permits from the City of Sacramento and Yolo County.

Response:

The applicant has applied for a Use Permit from the County of Yolo, and has been informed that a "Special Permit" is required from the City of Sacramento in accordance with Section 23-C-2-F (Open Space) of the City's Zoning Ordinance.

2. Comment:

The proposed project should consider protection of the riparian vegetation at the spoil site.

Response:

The spoil site plan has been modified to avoid disturbance of vegetation. The containment basin will be limited to the sparsely vegetated western portion of the disposal site.

3. Comment:

Dredging operations may pose a significant risk to aquatic life during periods of fish spawning and migration.

Response:

Fish spawning will be protected by the time constraints imposed on the project by the Department of Fish and Game through issuance of a Streambed Alteration Permit.

4. Comment:

Compliance with the California Surface Mining and Reclamation Act is required.

Response:

The applicant has been informed of the requirement to contact the California Mining and Geology Board regarding submittal of a mined land reclamation plan.

City of Sacramento

1. Comment: Consideration should be given to the potential conflicts of operation between the proposed project and the City's dredging of the Miller Park Boat Harbor.

Response:

Consideration of the time constraints imposed on the applicant by the Department of Fish and Game to protect fish spawning activity.

2. Comment:

The proposed project includes dredge discharge to the proposed spoils processing plant and water discharge back to the river at some point to the south. There are only two points at this location in the levee where there are discharge facilities. One is a 16" pipe through the levee to the Port of Sacramento site. The other is a discharge line from the Corps of Engineers' site A100. Both of these discharge lines will be utilized by the City's project.

Response:

Staff communication with the Sacramento Port District Chief Engineer indicates that negotiations have been underway and are continuing regarding the Port's leasing their property along the Sacramento River south of the lock to International Mineral Services. Such lease would include use of any discharge pipes on the property through the river levee. The applicant is not proposing to use the Corps' site or pipeline.

3. Comment:

There are strict water quality requirements for the City's project dictated by the State Water Quality Control Board and by the State Department of Fish and Game. The City's contractor will have to expend significant effort to assure that the project does not adversely impact water quality. Therefore, any operation occurring at the same time in the same vicinity on the river will make it very difficult if not impossible to determine who is responsible for any adverse impact on water quality.

Response:

The applicant has applied for permits from the Department of Fish and Game and the Regional Water Quality Control Board, and will fully comply with all requirements specified by these agencies.

4. Comment:

Consideration should be given to potential impacts on water quality.

Response:

The proposed project will be done in strict compliance with the specifications established by the Regional Water Quality Control Board.

5. Comment:

The depth and characteristics of any possible aquifer system underlying the project site should be discussed.

Response:

Only the sand that has been washed into the river will be removed down to the original riverbed, thereby restoring the river channel to its designed geometry and improving its natural flow characteristics.

6. Comment:

Potential effects on fish and wildlife should be analyzed.

Response:

The disposal site plan has been modified to avoid impacts on vegetation, and the applicant will be required to comply with requirements imposed by the Department of Fish and Game through issuance of a Streambed Alteration Permit.

CHECKED	78.9
MINUTE PAGE	1481

7. Comment:

The project's consistency with the City's General Plan should be assessed.

Response:

The applicant has applied for a Use Permit from the County of Yolo and has been informed of the requirement to apply to the City of Sacramento for a "Special Permit" in accordance with Section 23-C-2-F of the City's Zoning Ordinance.

8. Comment:

Consideration should be given to an assessment of the project site's historical and archaeological resources.

Response:

The Office of Historic Preservation and the Native American Heritage Commission had no adverse comments on the project.

DATE	7.8.10
MINUTE PAGE	148.2

INITIAL STUDY
Introduction

International Mineral Services, Inc. has submitted a request to remove a maximum 500,000 cubic yards of material annually for two years from the Sacramento River near Miller Park, Sacramento and Yolo Counties.

A floating dredge will be utilized to remove the material from the riverbottom and deposit it on the adjacent approved Sacramento-Yolo Port District spoil site where the stockpiled sand will be dried, processed and screened for commercial sale. Approximately 2,000 cubic yards will be processed daily. The sand deposits will be dredged and disposed of using barge mounted equipment. No dredging will be performed within 50 feet of the toe of the levees on either side of the river. The east side of the spoil site will be used as a settling pond for excess silt bearing water. After precipitating the silt out, excess water will be discharged into the river.

Miller Park and the I-5 Freeway are located between the beginning and ending points of the proposed dredging on the east side of the river. On the west side is a commercial-light industrial area, the barge canal, Sacramento-Yolo Port District spoil site, U. S. Army Corps of Engineers spoil site, and agricultural-residential land. Some areas of the east side of the river are heavily wooded on the bank with cottonwoods, oaks, and willows. The only area on the west side vegetated with large trees lies between the river and the commercial-industrial area at the upstream limits of the proposed dredging. Since dredging will not be done within 50 feet of the toe of the levees, no vegetation will be disturbed.

CALIFORNIA STATE	78.11
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I. BACKGROUND INFORMATION

- A. Applicant International Mineral Services
P. O. Box 162370
Sacramento CA 95816
Attention: Ned R. Workman
- B. Checklist Date: 6/25/86
- C. Contact Person: Linda Martinez, Dredging Coordinator
 Telephone: (916) 322-6375
- D. Purpose: Dredge material for commercial sale and enhancement of navigati
- E. Location: Dredging will be performed in the Sacramento River between Mile
56.0 and Mile 58.0, near Miller Park, Sacramento and Yolo Counties.
- F. Description: Dredge a maximum 500,000 cu. yds. of material annually for 2 y
utilizing a floating dredge. The spoil material will be deposited o
the Sacramento-Yolo Port Dist. spoil site at Yolo County AP#09-360-0
- G. Persons Contacted: Bob Mapes, Department of Fish and Game; Bob Clark,
U. S. Army Corps of Engineers
Permits authorizing the proposed project are currently being
processed by the U. S. Army Corps of Engineers, California
Regional Water Quality Control Board, and California Department
of Fish and Game.

II. ENVIRONMENTAL IMPACTS. (Explain all "yes" and "maybe" answers)

- A. *Earth*. Will the proposal result in:
- | | Yes | Maybe |
|--|-------------------------------------|--------------------------|
| 1. Unstable earth conditions or changes in geologic substructures? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Disruptions, displacements, compaction, or overcovering of the soil? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Change in topography or ground surface relief features? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. The destruction, covering, or modification of any unique geologic or physical features? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Any increase in wind or water erosion of soils, either on or off the site? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet, or lake? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Exposure of an people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards? | <input type="checkbox"/> | <input type="checkbox"/> |

DATE _____ 78.12
 SHEET PAGE _____ 1484

1. Alteration of obstruction to flow?
2. Alteration of or exposure to water temperature or any change in climate, either locally or regionally?
- C. Water.** Will the proposal result in:
1. Changes in the currents, or the course or direction of water movements, in either marine or fresh waters?
 2. Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?
 3. Alterations to the course or flow of flood waters?
 4. Change in the amount of surface water in any water body?
 5. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?
 6. Alteration of the direction or rate of flow of ground waters?
 7. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?
 8. Substantial reduction in the amount of water otherwise available for public water supplies?
 9. Exposure of people or property to water related hazards such as flooding or tidal waves?
 10. Significant changes in the temperature, flow or chemical content of surface thermal springs?
- D. Plant Life.** Will the proposal result in:
1. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?
 2. Reduction of the numbers of any unique, rare or endangered species of plants?
 3. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?
 4. Reduction in acreage of any agricultural crop?
- E. Animal Life.** Will the proposal result in:
1. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, or insects)?
 2. Reduction of the numbers of any unique, rare or endangered species of animals?
 3. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?
 4. Deterioration to existing fish or wildlife habitat?
- F. Noise.** Will the proposal result in:
1. Increase in existing noise levels?
 2. Exposure of people to severe noise levels?
- G. Light and Glare.** Will the proposal result in:
1. The production of new light or glare?
- H. Land Use.** Will the proposal result in:
1. A substantial alteration of the present or planned land use of an area?
- I. Natural Resources.** Will the proposal result in:
1. Increase in the rate of use of any natural resources?
 2. Substantial depletion of any nonrenewable resources?

1. ... hazardous substances (including, but not limited to, ...)
2. ...
- K. *Population*. Will the proposal result in:
1. The alteration, distribution, density or growth rate of the human population of the area?
- L. *Housing*. Will the proposal result in:
1. Affecting existing housing, or create a demand for additional housing?
- M. *Transportation/Circulation*. Will the proposal result in:
1. Generation of substantial additional vehicular movement?
 2. Affecting existing parking facilities, or create a demand for new parking?
 3. Substantial impact upon existing transportation systems?
 4. Alterations to present patterns of circulation or movement of people and/or goods?
 5. Alterations to waterborne, rail, or air traffic?
 6. Increase in traffic hazards to motor vehicles, bicyclists, or pedestrians?
- N. *Public Services*. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:
1. Fire protection?
 2. Police protection?
 3. Schools?
 4. Parks and other recreational facilities?
 5. Maintenance of public facilities, including roads?
 6. Other governmental services?
- O. *Energy*. Will the proposal result in:
1. Use of substantial amounts of fuel or energy?
 2. Substantial increase in demand upon existing sources of energy, or require the development of new sources?
- P. *Utilities*. Will the proposal result in a need for new systems, or substantial alterations to the following utilities:
1. Power or natural gas?
 2. Communication systems?
 3. Water?
 4. Sewer or septic tanks?
 5. Storm water drainage?
 6. Solid waste and disposal?
- Q. *Human Health*. Will the proposal result in:
1. Creation of any health hazard or potential health hazard (excluding mental health)?
 2. Exposure of people to potential health hazards?
- R. *Aesthetics*. Will the proposal result in:
1. The obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?
- S. *Recreation*. Will the proposal result in:
1. An impact upon the quality or quantity of existing recreational opportunities?

DATE DE 7 8.14
 NUMBER 1486

- Will the project result in the construction of a new structure or to alter an existing structure?
- Will the project result in any physical or aesthetic effects to a point of view or historic building, structure, or object?
- Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?
- Will the proposal restrict existing religious or sacred uses within the potential impact area?

U. Mandatory Findings of Significance.

- 1. Does the project have the potential to degrade the quality of the environment, reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?
- 2. Does the project have the potential to achieve short term, to the disadvantage of long term, environmental goals?
- 3. Does the project have impacts which are individually limited, but cumulatively considerable?
- 4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

III. DISCUSSION OF ENVIRONMENTAL EVALUATION (See Comments Attached)

IV. PRELIMINARY DETERMINATION

On the basis of this initial evaluation:

- I find the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **NEGATIVE DECLARATION** will be prepared.
- I find the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

Date: / /

For the State Lands Commission

CLIENT NO.	Form 8-30, 12/81
REFERENCE	1487