

CALENDAR ITEM
C71

MINUTE ITEM
This Calendar Item No. C71
was approved as Minute Item
No. 71 by the State Land
Commission by a vote of 3
to 0 at its 7/6/95
meeting.

07/06/95

PRC 6537.9

Valentine

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PROPOSED AMENDMENT OF
GENERAL LEASE - PUBLIC AGENCY USE, PRC 6537.9
STATE DEPARTMENT OF PARKS AND RECREATION
AT MONO LAKE, MONO COUNTY

APPLICANT:

California Department of Parks and Recreation
Attn: Robert Macomber, District Superintendent
Sierra District Headquarters
P.O. Drawer D
Tahoma, California 96142

AREA, TYPE LAND AND LOCATION:

Sovereign land at Mono Lake, Mono County.

LAND USE:

Operation as a unit of the State park system.

CURRENT LEASE PERIOD:

20 years beginning July 1, 1982 and ending June 30, 2002.

CONSIDERATION:

Public use and benefit.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003 (b) (2).

OTHER PERTINENT INFORMATION:

In 1981 the Legislature enacted P.R.C. Section 5045 et seq. establishing the Mono Lake Tufa State Reserve as a unit of the State park system. Pursuant to the legislation, the Reserve is managed by the Department of Parks and Recreation primarily for the purpose of protecting the tufa and associated sand structures and providing for their interpretation. The legislation provided further that the Reserve was to consist of the "state-owned

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portions of the Mono Lake bed lying at or below the elevation of 6,417 feet above sea level." By the same legislation the State Lands Commission was directed as soon as practicable after January 1, 1982 to issue to the Department of Parks and Recreation a permit for occupancy of the new Reserve as described above. In addition, the statute provided (P.R.C. Section 5045) that it was not the intent of the legislation to interfere with any reasonable use of land existing before January 1, 1981 within the boundaries of the new Reserve that does not conflict with the purposes for which the reserve is established." (Emphasis supplied).

By a lease which was effective July 1, 1982 the Commission issued to the Department of Parks and Recreation a General Permit - Public Agency Use for a 20-year term. No rental fee was charged in view of the public use and benefit associated with the Department's management of the Reserve. The permit, however, differed in some material respects from that required to be issued by the Legislature. Most significantly, instead of being for the "state-owned portions of the Mono Lake bed lying at or below the elevation of 6,417 feet above sea level" the leasehold is described as follows: "all those California State sovereign lands of Mono Lake, Mono County, California lying below elevation 6,417 feet above sea level and above the existing water line, the waterward boundary of said lands moving as the water surface moves up or down." (Emphasis supplied). The permit additionally differs from that mandated by the Legislature in that the permit provides that it should "not be construed to interfere with any reasonable use of land or other activity existing or occurring on or before January 1, 1981, or any activity or land use that the State Lands Commission may find to be in the State's best interest." (Emphasis added). While the underlined language was often included in public agency leases issued during that period, it is not authorized by the directory language used by the Legislature which, as noted above, preserved only those existing land uses not in conflict with the purpose for which the Reserve was established.

In view of these discrepancies between the lease as issued

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and the legislative directive, it is proposed that the existing General Permit - Public Agency Use, be amended as follows:

1. The land description of the leased premises (Section 3) is hereby modified to read in its entirety:

"All those California State sovereign lands of the Mono Lake, Mono County, California, lying below elevation 6,417 feet above sea level."

2. Paragraph 4 is amended to read "[t]his permit shall not be construed to interfere with any reasonable use of land or other activity existing or occurring on or before January 1, 1981 that does not conflict with the purposes for which the Reserve is established" and the following language from existing Paragraph 4 is deleted: "or any activity or land use that the State Lands Commission may find to be in the State's best interest."
3. Section 1 under Land Use or Purpose should be amended to more generally reflect legislative intent in requiring the Commission to issue the lease to the Department. It should read that the purpose of the lease is the "operation and management of those lands necessary for the management of Mono Lake Tufa State Reserve as a unit of the state park system."
4. Finally, Section 2, paragraph 3 should be deleted since the pending litigation to which the paragraph relates, United States v. California, has long since been resolved.

This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. Section 6360 et seq. but will not adversely affect those significant lands and the proposed lease amendment is consistent with its use classification.

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Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The staff believes that there is no possibility that this project may have a significant effect on the environment. Authority: 14 Cal. Code Regs. 15061 (b)(3).

EXHIBIT:

A. Land Description

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370 ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO ADVERSE EFFECT ON SUCH LANDS AND THAT THE ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370 ET SEQ.
2. AUTHORIZE ISSUANCE TO THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION OF AN AMENDMENT TO ITS EXISTING LEASE PURSUANT TO THE TERMS DESCRIBED ABOVE IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT ASSOCIATED WITH THE DEPARTMENT'S USE AND OCCUPANCY OF THESE LANDS.
3. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE. REGS. 15061 (b)(3) BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

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EXHIBIT A

**PRC 6537.9
W 23353**

Land Description

All those California State sovereign lands of the Mono Lake, Mono County, lying below elevation 6417' above sea level.

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