

MINUTE ITEM

This Calendar Item No. 616  
was approved as Minute Item  
No. 16 by the State Lands  
Commission by a vote of 2  
to 0 at its 3/23/82  
meeting.

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16

3/23/82  
W 22566  
Lane

GENERAL LEASE - COMMERCIAL USE

Before consideration of Item 16, attached, it was removed from the Consent Calendar and considered as the first item of the regular agenda.

During consideration of Item 16, Mr. Mathew Hudson, attorney for Mrs. Natalie Miller, appeared to express the concerns of Mrs. Miller. Basically, Mrs. Miller was objecting to the proposed lease because she felt the adjacent pier, owned by Mr. and Mrs. Lahargoue, extended approximately 70 feet in front of Mrs. Miller's property, thereby, she claimed, interfering with her rights as an upland owner.

Mr. Hudson also stated the concerns of John Bordessa, a tenant of Mrs. Miller's, who claims to have lost several sheep due to dogs which jumped from the pier and swam across to Mrs. Miller's property and attacked sheep.

Mr. Hudson submitted the following into the record:

- a. 12 photographs of the property involved;
- b. Letter dated 11/16/72 from Clarence Gilardi to "Dear Sir";
- c. Letter dated 11/21/72 from George Schlenker, Trustee, in response to Mr. Gilardi's 11/16/72 letter;
- d. Letter dated 3/18/82 from John Bordessa to the State Lands Commission.

Mr. Curtis L. Fossum, Staff Counsel, indicated staff has been trying to negotiate a lease with the owner of the Lakeville Marina for sometime. Mr. Fossum also stated it was staff's belief that it was in the best interest of the State to enter into a lease.

Mr. David Ackerman, Acting Chairman, inquired as to the Commission's latitude in requiring removal of a portion of the dock. Mr. Robert C. Hight, Chief Counsel, stated the Commission could require removal of any portion of the dock if the Commission felt there was an interference with public use and benefit.

Mr. James Trout, Assistant Executive Officer, pointed out that in this particular case, staff feels it is in the best interest of the State to approve this lease. It is staff's contention that the extension does not interfere with access to the property owned by Mrs. Miller. Mr. Trout also stated the lease could be amended at some future time if access became a problem.

Mr. N. Gregory Taylor, Assistant Attorney General, stated that ownership of the Petaluma River itself rests with the State. Mr. Taylor also indicated a regulation which gives preference to the upland owner in negotiating a lease. However, the Commission has the discretion of awarding or not awarding a lease to the adjacent upland owner.

After some discussion, Mr. Ackerman, Acting Chairman, indicated the Commission would defer action on this item at this time. He further directed staff to see what efforts could be undertaken to come to a compromise agreement between all concerned parties.

This item will be presented for consideration at a future meeting.

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C 16

GENERAL LEASE - COMMERCIAL USE

APPLICANT: Leon and Phyllis Lahargoue,  
dba Lakeville Marina  
5688 Lakeville Highway  
Petaluma, California 94952

AREA, TYPE LAND AND LOCATION:  
A 0.5± acre parcel of tide and submerged  
land located in the Petaluma River at Lakeville,  
Sonoma County.

LAND USE: For operation and maintenance of marina  
facilities.

TERMS OF PROPOSED LEASE:  
Initial period: 15 years from January 1,  
1982.  
Surety bond: \$2,000.  
Public liability insurance: Combined single  
limit coverage of \$200,000.

CONSIDERATION: \$663 per annum with the State reserving  
the right to fix a different rental on  
each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:  
Pursuant to 2 Cal. Adm. Code 2003.

PREREQUISITE TERMS, FEES AND EXPENSES:  
Applicant is lessee of upland.  
Filing fee has been received.

STATUTORY AND OTHER REFERENCES:  
A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.  
B. Cal. Adm. Code: Title 2, Div. 3; Title 14,  
Div. 6.

AB 884: 10/19/82.

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OTHER PERTINENT INFORMATION:

1. The subject tide and submerged land covered by the proposed lease is covered by floating docks, walkways and a launching ramp. A restaurant and bar, which are part of the marina operation, as situated on the uplands. A portion of the proposed lease area will extend approximately 100 linear feet downriver and be 30 feet waterward fronting on the adjacent property owner's parcel.
2. Counsel for Mrs. Natalie O'Malley Miller, the adjacent property owner, has been informed of the meeting and the proposed lease pursuant to Cal. Adm. Code, Title 2, Div. 3, Chapter 1, Article 2, Section 2000.
3. Staff believes that it is in the best interest of the State not to charge for back rent, interest and/or penalties in the interest of securing an acceptable lease with the current tenant.
4. The proposed lease herein requires the lessee to keep a valid lease or other agreement authorizing the use of the abutting upland.
5. This project is exempt from CEQA because it involves existing facilities, 2 Cal. Adm. Code, Div. 3, Section 2905, Class 1.
6. The project is situated on lands identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and is classified in use category "B" which authorizes Limited Use. The project as proposed will not have a significant effect upon the identified environmental values.

FURTHER APPROVALS REQUIRED:

United States Corps of Engineers and San Francisco Bay Conservation Development Commission.

CALENDAR ITEM NO. C 16 (CONTD)

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL DOCUMENT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH DOCUMENT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21084, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2905; AND FIND THAT THE PROJECT IS CONSISTENT WITH ITS USE CLASSIFICATION.
  
2. AUTHORIZE ISSUANCE TO LEON AND PHYLLIS LAHARGOUE, dba LAKEVILLE MARINA OF A 15-YEAR GENERAL LEASE - COMMERCIAL USE FROM JANUARY 1, 1982; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$663, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; BACK RENT, INTEREST AND/OR PENALTIES TO BE WAIVED; PROVISION OF A \$2,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$200,000; FOR OPERATION AND MAINTENANCE OF EXISTING MARINA FACILITIES ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT "A"

LAND DESCRIPTION

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A parcel of State-owned land in Petaluma Creek at Lakeville, Sonoma County, California, described as follows:

COMMENCING at a point on the southwesterly line of Lakeville Highway which bears S 35° 37' W 47.10 feet from Engineer's Station 194+97 P.O.T. of the survey for said highway; thence northwesterly along said southwesterly line of Lakeville Highway 150 feet to the POINT OF BEGINNING; thence parallel with and 150 feet northwesterly from the northwesterly line of the tract described in the deed to Frank Bello, et al, recorded in Book 557 of Official Records, page 367, Sonoma County Records Office S 35° 37' W 425 feet; thence the following six courses:

1. S 54° 23' E 240 feet;
2. S 35° 37' W 25 feet;
3. N 54° 23' W 502 feet;
4. N 35° 37' E 25 feet;
5. N 80° 37' E 55 feet, and
6. N 35° 37' E 380 feet more or less to a point on

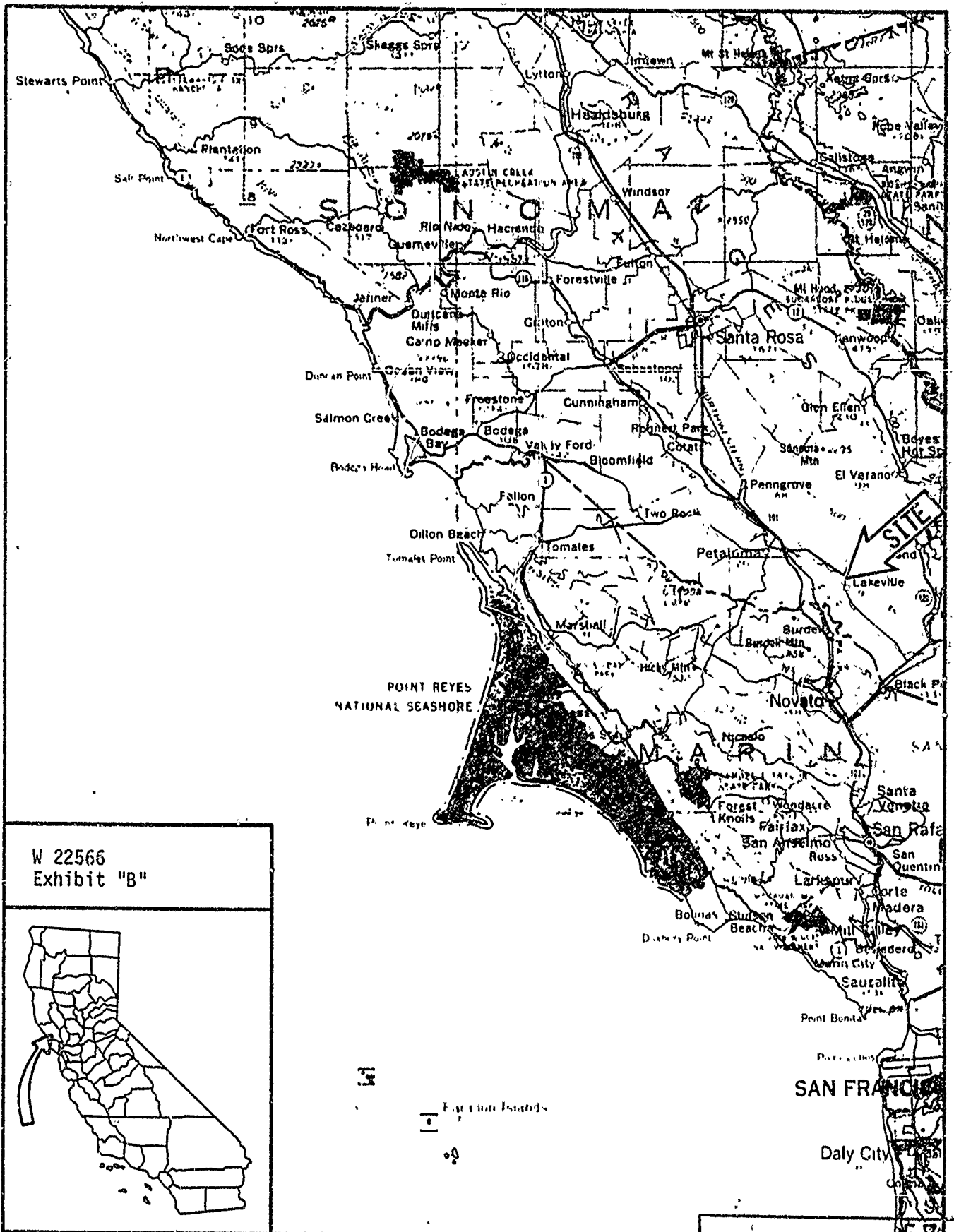
the said southwesterly line of Lakeville Highway; thence southeasterly along said southwesterly line to the point of beginning.

EXCEPTING THEREFROM any lands validly patented as Rancho Petaluma confirmed to M. G. Vallejo on November 19, 1875, or Tideland Survey No. 23, Sonoma County.

END OF DESCRIPTION

PREPARED JANUARY 14, 1982 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

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Exhibit "B"



Scale: 1 inch = 1 mile