

MINUTE ITEM 52

W 5125.4

Dave Brown

AUTHORIZE COLLECTION OF FEES AND COSTS

Dave Brown appeared before the Commission to present Item 52. Due to the increasing demand for government services, accompanied by the decreasing budgets to support such services, has required many governmental agencies to seek reimbursement from the individual or entity for whom the service is provided.

Dave Brown passed out a table prepared by SLC staff showing processing fees workload and estimate of reimbursable costs. Commissioner McCarthy questioned some of the transactions and the number of hours claimed and the criteria we are using to establish the costs.

Commissioner Tucker also questioned the criteria used to determine the actual cost of the small applicants versus the larger applicants.

After considerable discussion the Commission voted 3-0 to approve the Item as presented.

Attachment: Calendar Item 52  
Table of Workload/Reimbursable Costs

A)

) Statewide

S)

CALENDAR PAGE	
MINUTE PAGE	3740

## Processing Fees Workload and Estimate of Reimbursable Costs

Exhibit "A"

Page 1 of 2

	# Trans	Est. Hours per trans	Total Potential	Cost per Transaction	Current Fee	Current Budgeted	Proposed Fee	Deposit
<b>Extractive Development</b>								
Lease Processing								
Routine	11	40	\$26,339	\$2,394	\$300	\$3,300	contract	\$2,500
Complex	4	60	\$19,156	\$4,789	\$300	\$1,200	contract	\$5,000
Assignments/Quitclaims	15	10	\$8,979	\$599	\$0	\$0	\$750	
Geophysical Permits	12	25	\$17,958	\$1,497	\$250	\$3,000	contract	\$1,500
Dredging Permits	30	6	\$8,298	\$277	\$300	\$9,000	\$300	
Prospecting Permits	6	40	\$14,367	\$2,394	\$450	\$2,700	contract	\$3,000
Royalty Oil Sales Contracts	8	40	\$19,156	\$2,394	\$0	\$0	contract	\$3,000
Sub-Total			\$114,252			\$19,200		
<b>Land Management &amp; Conservation</b>								
Negotiation and Appraisal								
Public Agency Permits	62	14	\$40,015	\$645	\$450	\$20,925	contract	\$1,750
(appraisal)	20	20	\$18,440	\$922	25-35% waived			
Industrial Leases - New	11	240	\$121,706	\$11,064	\$0	\$0	contract	\$15,000
(appraisal)	11	120	\$60,853	\$5,532				
Commercial Lease - New	15	120	\$82,981	\$5,532	\$0	\$0	contract	\$10,000
(appraisal)	15	120	\$82,981	\$5,532				
Recreational Use	48	16	\$35,405	\$738	\$0	\$0	contract	\$1,000
(appraisal)	38	4	\$7,007	\$184				
Right of Way	32	16	\$23,603	\$738	\$350	\$11,200	contract	\$1,500
(appraisal)	11	16	\$8,114	\$738	public agency only			
Consent to Encumber	5	12	\$2,766	\$553	\$0	\$0	\$600	
Recreational Pier Permits	200	12	\$110,641	\$553	\$45	\$9,000	\$600	
Public Trusts Inspections	250	15	\$172,877	\$692	\$0	\$0	\$700	
Assignment - Standard	30	12	\$16,596	\$553	new this year \$300	\$9,000	\$600	
Assignment - Amendment	10	25	\$11,525	\$1,153	\$0	\$0	contract	\$1,250
Protective Structure	6	20	\$5,532	\$922	\$150	\$900	contract	\$1,500
(appraisal)	6	8	\$2,213	\$369				
Sublease Approval	25	15	\$17,283	\$692	\$0	\$0	contract	\$800
Southern Coast Title Inquiries	120	5	\$27,660	\$231	\$0	\$0	\$250	
Sub-Total			\$343,205			\$51,025		

Appraisers

Appraiser costs to be added to above estimates for those transactions requiring an appraisal.

CALENDAR PAGE

MINUTE PAGE

3741

# Processing Fees Workload and Estimate of Reimbursable Costs

Exhibit 4A

Page 2 of 2

Boundary Line Agreements	# Trans	per trans	Est. Hours	Total Potential	Cost per Transaction	Current Fee	Total Budgeted	Proposed Deposit Fee
Associate BDO Research	9		320	\$149,635	\$16,626			
Sr. BDO Review	9		100	\$53,875	\$5,936			
Associate BDO Monument	9		240	\$112,226	\$12,470			
Sr. Land Agent Title	9		36	\$18,022	\$2,002			
Assoc Land Agent	9		120	\$49,789	\$5,532	\$0	\$0	
	9			\$323,546	\$42,616			
Total Potential				\$1,346,053			\$70,225	contract negotiable

MINUTE ITEM  
This Calendar Item No. 52  
was approved as Minute Item  
No. 52 by the State Lands  
Commission by a vote of 3  
to 0 at its 12-12-90  
meeting.

CALENDAR ITEM

: 52

A )

S )

12/12/90  
W 5125.4  
D. Brown

AUTHORIZE COLLECTION OF FEES AND COSTS

PARTY:

State Lands Commission  
1807 - 13th Street  
Sacramento, California 95814

The increasing demand for government services, accompanied by the decreasing revenue to support such services, has required many governmental entities to seek direct reimbursement from the individual or entity for whom the service is provided. The Commission staff has also found it increasingly difficult to provide requested services to the public with decreasing funding and personnel. While some reimbursement is currently received in the form of fees and costs collected, those reimbursements are not sufficient to cover the actual cost of the activity.

The Commission staff is therefore recommending that the Commission authorize the recovery of actual costs for requested activities performed for other agencies and the public.

The Commission presently has a system of cost reimbursement for environmental studies and several other activities which it is requested to perform. This is done by way of a reimbursement agreement which provides for a deposit of the estimated costs or a portion of it with the balance billed or refunded, depending upon the actual cost.

Current statutes and regulations provide the necessary authority to collect both fees and costs. Such authority is outlined in Exhibit "A" attached.



CALENDAR ITEM NO. **52** (CONT'D)

The staff proposes to continue the \$25 filing fee provided for in California Code of Regulations Section 1905. Additionally, processing fees would be collected as follows:

A non-refundable processing fee for routine or uncomplicated services based on the average costs of performance of such service. (This would be determined by a cost analysis study.)

A refundable cost deposit for non-routine and complicated services based on the estimated cost of such services. Any unexpended portion of such deposit would be refunded and additional costs would be billed. A reimbursement agreement would be used to formalize the transaction.

AB 884: N/A.

EXHIBIT: A. Attached

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. AUTHORIZE AND DIRECT THE STAFF TO COLLECT THE FEES AND COSTS PROVIDED BY STATUTE AND REGULATION AND IN ACCORD WITH THE METHOD SET OUT IN THIS CALENDAR ITEM.
3. AUTHORIZE THE EXECUTIVE OFFICER AND THE STAFF TO TAKE ANY ADDITIONAL ACTION NECESSARY TO CARRY OUT THE PURPOSE AND INTENT OF THIS ITEM.

EXHIBIT "A"

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN, Governor

STATE LANDS COMMISSION

1807 13TH STREET

SACRAMENTO, CALIFORNIA 95814

August 7, 1990

TO: Dave Brown, Accounting

FROM: Peter Pelkofer, Legal

SUBJECT: Fees and Cost/Authority

QUESTION: Does the Commission have authority to require payment of fees and costs which reflect the actual cost of performing the requested service ?

RESPONSE: The Commission may set fees and costs which reflect the actual cost of performing the requested service.

DISCUSSION:

Section 1905 of Title 2, California Code of Regulations provides for "Filing and Processing Fees". It states:

Filing and processing fees shall be paid by applicants at the time of filing an application as follows:

- (a) Filing fee.....\$25.00
- (b) Processing fee for Commission services computed and charged as follows:
  - (1) A non-refundable expense deposit for routine or uncomplicated services based on an average cost of such services; or
  - (2) A refundable expense deposit for non-routine and complicated services based on the estimated costs of such services. Any unexpended portion of such expense deposit shall be refunded to the applicant;
  - (3) An additional expense deposit for additional or unanticipated services, to be paid within 21 days of written notice being mailed to the applicant. Any unexpended portion of such expense deposit shall be refunded to the applicant.

Section 1905 is the only reference to fees and costs in our regulations.

Various sections of the Public Resources Code provide for the collection of fees and costs.

Section 6214 provides that the commission shall charge and collect fees pursuant to its rules and regulations. The Section outlines the tasks (certification and duplication of documents) for which fees shall be charged but it does not specify the amount. It provides no prohibition to recovery of costs.

Section 6218 provides that "the commission may charge and collect reasonable fees for services performed by it, not exceeding the actual cost to the state of such services."

Section 6309, dealing with marine salvage permits, allows the commission to fix and collect reasonable fees and cost for the processing and issuance of permits.

Section 6502, which deals with the leasing of public lands, provides that "the application shall be accompanied by a reasonable filing fee prescribed by the commission by rule or regulation, but such fee may not exceed the average of the commission's actual costs of receiving applications and making the initial title review for leases or the permits of the class applied for."

Several conclusions can reasonably be drawn from a review of the above regulation and the code sections.

(1) The Legislature intended the Commission to charge and collect fees and costs and has provided that authority.

(2) Fees and costs are variously characterized as, application fees, filing fees, processing fees, and costs of performing services.

(3) The only reference to a specific dollar amount is in Section 1905 of the regulations and requires a \$25.00 "filing fee."

(4) That Section, 1905, also provides for processing fees, a distinction which is important, because it clearly limits filing fees to the concept expressed in P.R.C. 6502, of "a reasonable fee prescribed by the commission by rule or regulation and a fee not exceeding the average of the commission's actual costs of receiving applications and making an initial review."

Fees and Cost/Authority, page three

(5) Again, based on the above distinction, a processing fee may be a fee for the actual cost of "processing" the application.

(6) That "cost of processing" or "fee for services", as referenced in Section 6218, may be charged and collected for the services performed, not to exceed the actual cost of those services to the state.

It is my opinion that compliance with the code and our regulations can be achieved by:

Charging the \$25.00 "filing fee" as provided in the regulation and defining it as a fee for the receipt and initial review of an application, and in addition;

Setting a processing fee for routine matters at an average actual cost of performing that service. This should be based on a cost analysis of the tasks performed, or;

Providing an initial processing fee (a deposit) for actual cost of non-routine tasks, and refund the excess or bill for additional funds based on the actual costs incurred.

A policy statement should be developed for approval by the Commission of the above method of charging and collection fees and that together with the statutes and regulation will be sufficient authority for recovery of actual costs.

Copy to: Jim Trout  
Jack Rump

0488H