

**CALENDAR ITEM  
C48**

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04/26/05

PRC 5319

WP 5319.1

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N. Quesada

**TERMINATION OF GENERAL LEASE – RECREATIONAL USE AND  
AUTHORIZATION TO REMOVE LESSEE AND IMPROVEMENTS**

**LESSEE:**

Dennis Pimentel  
1291 Simmons Lane  
Novato, CA 94945

**AREA, LAND TYPE, AND LOCATION:**

0.028 acres, more or less, of sovereign lands located at Black Point, Marin  
County, on the Petaluma River.

**AUTHORIZED USE:**

Ark, shed, walkway and platform.

**LEASE TERMS:**

Initial Period: Ten years, beginning October 1, 1988

Surety Bond: \$2,000

Insurance: Combined single limit coverage of  
\$100,000.

**CONSIDERATION:** \$238 per annum; with the State reserving the right to fix a  
different amount on each fifth anniversary of the lease.

**BACKGROUND INFORMATION:**

The parcel of land at issue was originally excess lands of the Department of  
Highways (presently Caltrans) that was in fact sovereign land. The Department  
of Highways leased this parcel to a Mr. Charles Huber for an ark site. When this  
land was discovered to be sovereign in the mid-1960s, the Department of  
Highways transferred the parcel back to the State Lands Commission and  
terminated Huber's lease. Mr. Huber then contacted the Commission regarding  
obtaining a lease, which was denied given the objections of the local government

CALENDAR ITEM NO. C48 (CONT'D)

agencies. The Commission directed Mr. Huber to remove his improvements from the site in 1966. After a number of attempts to have the site vacated, concurrent with a number of changes to the party occupying the site, the Commission issued a lease to Mr. Huber when the local government dropped its objections in 1977. Huber sold his "interest" in the parcel to Ms. Ethel Godoy in 1978. Ms. Godoy was brought under lease at this time.

On September 14, 1988, the Commission authorized a renewal of the lease with Ethel (Godoy) Narro. The lease was issued for ten years effective October 1, 1988, and ending September 30, 1998. On May 1, 1991, the lease was assigned to Dennis Pimentel. On September 18, 1998, Dennis Pimentel submitted an application for the renewal of Lease PRC 5319.1. A proposed lease agreement was submitted to Mr. Pimentel, but the agreement was never returned for Commission approval. On September 30, 1998, that lease expired. As Mr. Pimentel has made the annual rent payment of \$238 through this year, the 1991 lease is in a holdover status.

Beginning in 2003, staff received complaints from neighbors and local government regarding the condition of the property, health and safety issues, and criminal conduct. Additionally, the ark/shed authorized under the lease was destroyed by a fire around the same time. State Lands Commission staff conducted a site visit and concur that the complaints are valid.

The site visit also revealed commercial, residential, and business use of the property, which is leased for recreational use only. Unauthorized improvements on the property include two RV trailers, a lean-to, and a large storage trailer; active automobile storage and repairs taking place on the property; a large number of hazardous materials containers (gasoline and propane); and a generator, which is believed to have caused the earlier fire on the property. The property is in a general state of disrepair and unsafe condition, with a huge amount of debris scattered throughout. Additionally, a law enforcement task force, led by the Marin County Sheriff's Office, has conducted four raids on the property within the last year, seizing weapons, drugs, and stolen property. Mr. Pimentel's agent was arrested in the most recent of these raids this past month.

On March 18, 2005, by certified letter with return receipt requested, staff notified the lessee of the above deficiencies and requested that he prepare for termination of the lease and remove all the improvements and debris within 30 days of notice. Having received no response, staff recommends that the lease be terminated.

CALENDAR ITEM NO. C48 (CONT'D)

Staff has reviewed the lease and has determined that the following deficiencies under the lease have not been cured:

1. Failure to maintain the authorized improvements in good order and repair, specifically, as required by Paragraph 4(b) of Section 4 – General Provision of the Lease, the platform and walkway are in poor, unsafe condition. The existence of trash, derelict vehicles and debris on the property is also a violation of this provision of the lease.
2. Concerns that pollution and garbage from the property are contaminating the adjoining Petaluma River. Paragraph 4(d) of Section 4 - General Provisions of the Lease, requires that the Lessee practice conservation of water and other natural resources and prevent pollution and harm to the environment in or on the leased premises.
3. Residential use is prohibited on this site by Paragraph 4(g) of Section 4- General Provisions of the Lease. Lessee has allowed the property to be used for residential use as evidenced during staff's visit, and furthermore, the installation of two RV trailers on the site is a violation of the lease terms.
4. A \$100,000 combined insurance policy covering the lease premises is required by Paragraph 11(a) (2) and Paragraph 8 of Section 4- General Provisions of the Lease. No such policy has been renewed or replaced.
5. A \$2,000 bond securing the Lessee' s performance is required by Paragraph 11(a)(2) and Paragraph 9 Section 4- General Provisions of the Lease. The only bond in existence at one time was issued to Dennis Pimentel, in the amount of \$2,000; that bond was canceled by Lessee on September 22, 1995. The Lessee has not provided evidence to the Commission of the establishment of a new bond.

If termination of the Lease is authorized as recommended, a removal plan will be prepared prior to the removal of materials, including potentially hazardous substances, and the dilapidated platforms and walkway. Staff will coordinate its efforts with local (Marin County Environmental Health Services Division) and State (Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board) agencies, for example, in the review and implementation of such plan.

CALENDAR ITEM NO. C48 (CONT'D)

**OTHER PERTINENT INFORMATION:**

**Lease Termination:**

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c) (3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

**Site Cleanup:**

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazard Substances; Title 14, California Code of Regulations, section 15330.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

**EXHIBIT:**

- A. Location Map

**PERMIT STREAMLINING ACT:**

N/A

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

CALENDAR ITEM NO. C48 (CONT'D)

**CEQA FINDING:**

**LEASE TERMINATION:**

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

**SITE CLEANUP:**

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 30, MINOR ACTIONS TO PREVENT, MINIMIZE, STABILIZE, MITIGATE OR ELIMINATE THE RELEASE OR THREAT OF RELEASE OF HAZARDOUS WASTE OR HAZARDOUS SUBSTANCES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15330.

**AUTHORIZATION:**

1. AUTHORIZE THE TERMINATION OF LEASE NO. PRC 5319.1 ISSUED TO DENNIS PIMENTEL APPROVED BY THE COMMISSION ON SEPTEMBER 14, 1988, FOR FAILURE TO MEET LESSEE OBLIGATIONS UNDER THE LEASE, SPECIFICALLY FOR FAILURE TO: 1) PROVIDE A CERTIFICATE OF INSURANCE EVIDENCING CURRENT INSURANCE ON THE LEASE PREMISES AS REQUIRED BY SECTION 1 PARAGRAPH 11(a) (2) AND 9 OF SECTION 4 OF THE LEASE; 2) PROVIDE A BOND CERTIFICATE AS REQUIRED BY SECTION 1 AND PARAGRAPH 11(a)(2) AND 9 OF SECTION 4 OF THE LEASE; 3) MAINTAIN AUTHORIZED IMPROVEMENTS IN GOOD ORDER AND REPAIR AS REQUIRED BY PARAGRAPH 4(b) OF SECTION 4 OF THE LEASE; 4) PREVENT POLLUTION AND HARM TO THE ENVIRONMENT FROM POLLUTION AND GARBAGE IN OR ON LEASED PREMISES AS REQUIRED BY PARAGRAPH 4(d) OF SECTION 4 OF THE LEASE; AND 5) ESTABLISHMENT OF RESIDENTIAL USES AT THE LEASED PREMISES, AND THE INSTALLATION OF RV TRAILERS ON LEASE PREMISES AS

CALENDAR ITEM NO. C48 (CONT'D)

PROHIBITED BY PARAGRAPH 4(g) OF SECTION 4 OF THE LEASE.

2. AUTHORIZE STAFF OF THE STATE LANDS COMMISSION AND/OR OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO REMOVE LESSEE AND IMPROVEMENTS, ALL UNAUTHORIZED IMPROVEMENTS, INCLUDING POTENTIALLY HAZARDOUS SUBSTANCES, FROM STATE-OWNED SOVEREIGN LANDS DESCRIBED IN THE TERMINATED LEASE IN THE PETALUMA RIVER AT BLACK POINT, MARIN COUNTY.

