

CALIFORNIA STATE LANDS COMMISSION

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Established in 1938

JENNIFER LUCCHESI, *Executive Officer*
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August 24, 2020

File Ref: I2177

Steven Lazar
Senior Planner
Humboldt County Planning &
Building Department
3015 H Street
Eureka, CA 95501

Subject: Jurisdictional Determination for a Billboard Reconstruction Project Located within Assessor's Parcel Numbers 305-031-007, -008, and -009, adjacent to the Elk River, near Eureka, Humboldt County

Dear Mr. Lazar:

This letter is in response to your request for a determination by the California State Lands Commission (Commission) as to whether it asserts a sovereign title interest in the property that the above referenced project will occupy and whether it asserts that the project will intrude into an area that is subject to the Public Trust.

We understand that the project is located within Assessor's Parcel Numbers 305-031-007, -008, and -009, which comprise a narrow strip of land situated east of State Highway 101 and west of the lower reaches of the Elk River. The parcels have hosted billboards since at least 1955 and are currently developed with three billboard structures which face northbound traffic. On November 26, 2019, the northernmost billboard was damaged when severe winds from a winter storm caused a number of the vertical supporting posts to snap, resulting in the collapse of the billboard. A permit from Humboldt County is being sought to allow for repair of the fallen billboard. Erection of the sign will require replacement of a number of the damaged posts and other structural elements. Any new vertical support posts will be installed within the same location as the damaged ones they are replacing. A total of 18 vertical posts are used to support the billboard structure.

Based upon the information provided and a preliminary review of our records, we have determined that the property on which the project is located does not include State sovereign land under the jurisdiction of the Commission and is not subject to the Public

Trust. Assessor's records show this property as owned by All Points Outdoor, Inc. The Elk River, adjacent to the property, is natural, possibly navigable, and possibly tidal. Both the bed of the river and the uplands at this location are within the exterior boundaries of lands the State acquired and patented under a land grant known as the 500,000 Acres Grant, with no minerals reserved. Any remaining State interest in the Elk River to the limit of tidal action has been granted to the Humboldt Bay Harbor, Recreation, and Conservation District pursuant to Chapter 1283, Statutes of 1970 and as amended, minerals reserved, excluding sand, gravel, and inert earth materials.

Please note that the Elk River may lie in an area that is subject to a public navigation easement. This easement provides that members of the public have the right to navigate and exercise the incidences of navigation in a lawful manner on State waters that are capable of being physically navigated by oar or motor-propelled small craft. Such uses may include, but are not limited to, boating, rafting, sailing, rowing, fishing, fowling, bathing, skiing, and other water-related public uses. This easement right of the public must not be restricted or impeded. In addition to compliance with California Streets and Highways Code section 84.5, the proposed project activities must not restrict or impede the navigation and recreational rights of the public.

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code §§ 6301, § 6306.) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the ordinary high water mark, which is generally depicted by the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where the boundary has been fixed by agreement or a court decision. Such boundaries may not be readily apparent from present day site inspections.

This determination is without prejudice to any future assertion of State ownership or public rights, should circumstances change, or should additional information come to our attention. In addition, this letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction.

If you have any questions, please contact Ninette Lee, Public Land Manager, at (916) 574-1869 or by email at ninette.lee@slc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Bugsch', written in a cursive style.

Brian Bugsch, Chief
Land Management Division

cc: Ninette Lee
Land Management Division
CSLC

Reid Boggiano
Granted Lands Unit
CSLC