

MINUTE ITEM

This Calendar Item No. C39 was approved as Minute Item No. 39 by the California State Lands Commission by a vote of 3 to 0 at its 2-17-05 meeting.

**CALENDAR ITEM
C39**

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02/17/05

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PRC 2610

WP 2610.1

N. Quesada

**TERMINATION OF GENERAL LEASE – COMMERCIAL USE
AND ISSUANCE OF NEW GENERAL LEASE – RECREATIONAL USE**

LESSEES:

Sycamore Park, Inc.
601 Brannan Island Road
Isleton, CA 95641

Hans W. Schulz, Trustee of the
Schulz Family Trust
P. O. Box 19682
Irvine, CA 92623

APPLICANT:

Palmero LLC, dba Delta Shores Resort and Marina
601 Brannan Island
Isleton, CA 95641

AREA, LAND TYPE, AND LOCATION:

1.054 acres of sovereign lands in the Mokelumne River, Andrus Island, near the city of Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing recreational 323-foot by 55-foot open berth accommodation dock system with 43 berths serving the upland RV park located in the Mokelumne River, Andrus Island, near the city of Isleton in Sacramento County.

PREVIOUS LEASE TERMS:

Initial Period: Thirty years, beginning April 1, 1984

Surety Bond: \$5,000

Insurance: Public liability insurance: Combined single limit coverage of

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\$1,000,000.

NEW LEASE TERMS:

Initial Period: Twenty-five years, beginning March 1, 2005

Surety Bond: \$20,000

Insurance: Combined single-limit insurance coverage of no less than \$1,000,000.

CONSIDERATION:

Previous Lease: \$1,200 per annum; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

New Lease: \$2,700 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Other: This lease does not allow the Applicant to use the leased premises for commercial purposes, without prior authorization of Lessor.

The lease contains provisions that the Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Guest Dock Users and Boaters", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. Lessee shall post the BMPs for Guest Dock Users and Boaters" in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs.

Any modifications to the accommodation dock facility will require an amendment to this lease.

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BACKGROUND INFORMATION:

On June 21, 1984, the Commission authorized issuance of a General Lease – Commercial Use to Sycamore Park, Inc., for a commercial marina. This lease was issued for 30 years effective April 1, 1984, and ending March 31, 2014.

On May 25, 2004, by certified mail the Commission staff notified Sycamore Park and the Schulz Family Trust of the lease deficiencies and requested the deficiencies to be cured. Staff did not receive any response to the letter. Therefore, staff recommended that the Lessee be declared in default.

On August 17, 2004, the Commission found Sycamore Park, Inc., and Hans W. Schulz, Trustee of the Schulz Family Trust, to be in default for failure to comply with the obligations under General Lease – Commercial Use Lease, PRC No. 2610.1.

The notification of default to the Lessee was issued on August 18, 2004. Sixty (60) days were given to cure the described defaults. However, staff has not obtained any response from Sycamore Park and the Schultz Family Trust, the existing Lessees. Staff has reviewed the lease and has determined that the following requirements under the notification of default were not cured:

1. The lease and the adjacent uplands are not held by the same party as required by Paragraph 10(b) of Section 4 – General Provisions. The lease is currently in the name of Sycamore Park Inc., and the adjacent uplands were sold to Old West Annuity and Life Insurance Company, and subsequently deeded to Palmero LLC, dba Delta Shores Resort and Marina.
2. A \$1,000,000 combined insurance policy covering the lease premises is required by Section 1 and Paragraph 8 of Section 4 – General Provisions of the Lease. The Lessee has not provided evidence of current coverage.
3. A \$5,000 bond securing the Lessee's performance is required by Section 1 and Paragraph 9 of Section 4 – General Provisions of the Lease. The Lessee has not provided evidence to the Commission of the placement of the bond.
4. Section 2 of the lease requires payment of annual rent in the amount of \$1,200 on or before April 1 of each lease year. Lessee has not made

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payment of rent for the lease year commencing April 1, 2004.

5. Lessee has not submitted Annual Gross Income reports as required by Paragraph 18 of Section 4 – General Provisions of the Lease.

In 2004, the Old West Annuity and Life Insurance Co. owned the uplands adjacent to the lease premises and had verbally requested the Commission assign the lease. However, since then, the upland property was transferred on August 18, 2004, to Palmero, LLC, dba Delta Shores Resort and Marina. Palmero, LLC, has submitted an application to obtain the lease PRC 2610.1.

Staff of the State Lands Commission has reviewed the Applicant's qualifications and financial condition as well as the physical condition of the existing marina. Staff believes the Applicant has relevant business expertise and provided proof of financial strength and reliability to manage the existing facility.

It is the Applicant's intent to use the existing berths as accommodation docks to the RV Park members of Delta Shores Resort and Marina. Applicant is prohibited from using the lease premises for commercial purposes without the prior authorization of the Commission.

All outstanding rents from Lessee, Sycamore Park, Inc., for the period of April 1, 2004, through February 28, 2005, including all penalty and interest, are waived because there is no entity from which to collect.

OTHER PERTINENT INFORMATION:

1. **Termination of Existing General Use – Commercial Use**
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.

2. **Issuance of New General Lease – Recreational Use**
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

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the CEQA; as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site Map and Location Map

PERMIT STREAMLINING ACT:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING GENERAL LEASE – COMMERCIAL USE
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.

ISSUANCE OF NEW GENERAL LEASE – RECREATIONAL USE
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 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

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SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE THE TERMINATION OF LEASE NO. PRC 2610.1 ISSUED TO SYCAMORE PARK, INC./ HANS W. SCHULZ TRUSTEE OF THE SCHULZ FAMILY TRUST DATED JANUARY 1, 1988, AND APPROVED BY THE COMMISSION ON JUNE 21, 1984, FOR FAILURE TO MEET ITS OBLIGATIONS UNDER LEASE PRC 2610.1: 1) SIMULTANEOUSLY HOLD AN INTEREST IN THE LEASE PREMISES AND THE ADJACENT UPLANDS AS REQUIRED BY PARAGRAPH 10(b) OF SECTION 4 OF THE LEASE; 2) PROVIDE A CERTIFICATE OF INSURANCE EVIDENCING CURRENT INSURANCE ON THE LEASE PREMISES AS REQUIRED BY SECTION 1 AND PARAGRAPH 8 OF SECTION 4 OF THE LEASE; 3) PROVIDE A BOND CERTIFICATE AS REQUIRED BY SECTION 1 AND PARAGRAPH 9 OF SECTION 4 OF THE LEASE; 4) PAY RENT FOR THE LEASE YEAR BEGINNING APRIL 1, 2004, AS REQUIRED BY SECTION 2 PARAGRAPH 1(a)(1) OF THE LEASE; AND 5) SUBMIT ANNUAL GROSS INCOME REPORTS AS REQUIRED BY PARAGRAPH 18 OF SECTION 4 OF THE LEASE.
2. AUTHORIZE RENTS BE WAIVED FOR THE PERIOD APRIL 1, 2004, THROUGH FEBRUARY 28, 2005, INCLUDING ALL PENALTY AND INTEREST, FOR GENERAL LEASE-COMMERCIAL USE, PRC 2610.1.
3. AUTHORIZE ISSUANCE TO PALMERO, LLC, DBA DELTA SHORES RESORT AND MARINA, OF A GENERAL LEASE – RECREATIONAL USE, BEGINNING MARCH 1, 2005, FOR A TERM OF TWENTY FIVE YEARS, FOR AN EXISTING RECREATIONAL OPEN BERTH ACCOMMODATION DOCK, WITH 43 SLIPS, AND A RAMP AS REPRESENTED ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: \$2,700 PER YEAR; WITH THE STATE RESERVING THE RIGHT

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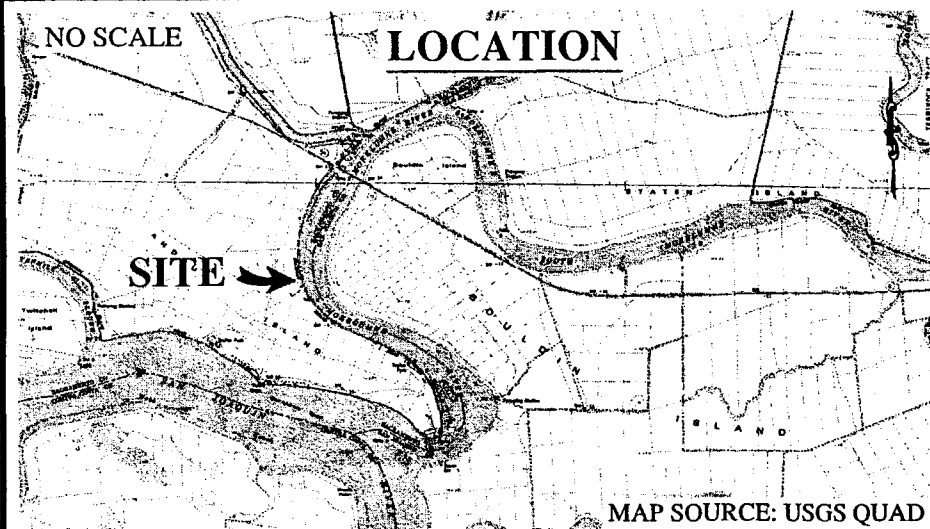
TO FIX A DIFFERENT RENT PERIODICALLY DURING THE
LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY
INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000
FOR COMBINED SINGLE-LIMIT COVERAGE; SURETY BOND IN
THE AMOUNT OF \$20,000.

NO-SCALE

SITE



**PALMERO LLC, dba DELTA SHORES RESORT AND MARINA
601 BRANNAN ISLAND ROAD**



MAP SOURCE: USGS QUAD

Exhibit A
 PRC 2610.1
 PALMERO LLC
 GENERAL LEASE
 APNs 156-0110-046&007
 MOKELUMNE RIVER
 SACRAMENTO CO.



MJ 12/04

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.