

**CALENDAR ITEM
C12**

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05/05/08
WP 8544.1
M.Clark

**TERMINATION OF A GENERAL LEASE – PROTECTIVE STRUCTURE AND
RECREATIONAL USE AND ISSUANCE OF A NEW GENERAL LEASE –
RECREATIONAL AND PROTECTIVE STRUCTURE USE**

LESSEES:

John Paletta and Sylvia Paletta

APPLICANT:

JCS Properties, LLC, a Delaware limited liability company

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the San Joaquin River, adjacent to 441 Brannan Island Road, six miles south of the city of Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, gangway, electrical conduit, three pilings, and bank protection, as shown on Exhibit A.

LEASE TERM:

Ten years, beginning September 28, 2007.

CONSIDERATION:

Uncovered Floating Boat Dock, Gangway, Three Pilings, and Electrical Conduit: \$245 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

Bank Protection: The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

SPECIFIC LEASE PROVISIONS:

Liability insurance in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

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1. Applicant owns the uplands adjoining the lease premises.
2. On December 8, 2005, the Commission authorized a ten-year General Lease – Protective Structure and Recreational Use, to John Paletta and Sylvia Paletta. That lease will expire July 30, 2015. On September 28, 2007, the upland property was deeded to JCS Properties, LLC, a Delaware limited liability company. The Applicant is now applying for a new General Lease – Recreational and Protective Structure Use.
3. Applicant does not qualify for the rent-free use of the uncovered floating boat dock, gangway, three pilings, and electrical conduit because the Applicant does not own the littoral property as a natural person pursuant to Public Resources Code section 6503.5.
4. The bank protection will mutually benefit both the public and the Applicant. The bank of the San Joaquin River will have the additional protection from wave action provided at no cost to the public.
5. **Termination of Existing Lease:** 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.
6. **Uncovered Floating Boat Dock, Gangway, Three Pilings, Electrical Conduit, and Bank Protection:** 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 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.
7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. but such activity will not affect those significant lands.

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EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: 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.

UNCOVERED FLOATING BOAT DOCK, GANGWAY, THREE PILINGS, ELECTRICAL CONDUIT, AND BANK PROTECTION: 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).

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 TERMINATION, EFFECTIVE SEPTEMBER 27, 2007, OF LEASE NO. PRC 8544.9, A GENERAL LEASE – PROTECTIVE STRUCTURE AND RECREATIONAL USE, ISSUED TO JOHN PALETTA AND SYLVIA PALETTA.
2. AUTHORIZE ISSUANCE OF A TEN-YEAR GENERAL LEASE – RECREATIONAL AND PROTECTIVE USE, TO JCS PROPERTIES, LLC, A DELAWARE LIMITED LIABILITY COMPANY, BEGINNING SEPTEMBER 28, 2007, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING UNCOVERED FLOATING BOAT DOCK, GANGWAY, ELECTRIC CONDUIT, THREE PILINGS, AND BANK PROTECTION AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION FOR THE UNCOVERED FLOATING BOAT DOCK, GANGWAY, THREE

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PILINGS, AND ELECTRICAL CONDUIT: ANNUAL RENT IN THE AMOUNT OF \$245, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; CONSIDERATION FOR THE BANK PROTECTION: THE PUBLIC USE AND BENEFIT; WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; AND LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000.