

**CALENDAR ITEM
C07**

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08/22/08

WP 5121.9

S 6

V. Caldwell

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

LESSEES:

Robert W. Atthowe and Katherine V. Atthowe

APPLICANT:

Linda Louder

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Sacramento River, adjacent to 2197 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, two dolphins, gangway, and the retention of bank protection as shown on Exhibit A.

LEASE TERM:

Ten years, beginning August 22, 2008.

CONSIDERATION:

Uncovered Floating Boat Dock, Two Dolphins, and Gangway: No monetary consideration pursuant to Public Resources Code section 6503.5.

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 with combined coverage of no less than \$500,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

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2. On June 14, 1999, the Commission authorized a ten-year Recreational Pier Lease to Robert W. Atthowe and Katherine V. Atthowe. That lease will expire March 9, 2009. On March 15, 2004, the upland property was deeded to Linda Louder. The bank protection has existed at this site for many years; however, it was not previously authorized by the Commission. The Applicant is now applying for a new General Lease – Recreational and Protective Structure Use.
3. The Applicant qualifies for the rent free use of the uncovered floating boat dock, two dolphins, and gangway because the Applicant is a natural person who owns the littoral land that is improved with a single-family dwelling 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 Sacramento 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. **Existing Uncovered Floating Boat Dock, Two Dolphins, and Gangway:** 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. **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

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project is exempt under Class 4, Minor Alterations to Land; Title 2, California Code of Regulations, section 2905 (d)(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.

8. These activities involve 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 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.

EXISTING UNCOVERED FLOATING BOAT DOCK, TWO DOLPHINS, AND GANGWAY: 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).

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 4, MINOR ALTERATION TO LAND; TITLE 2, CALIFORNIA CODE OF REGULATIONS SECTION 2905 (D)(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 TERMINATION, EFFECTIVE AUGUST 21, 2008, OF LEASE NO. PRC 5121.9, A RECREATIONAL PIER LEASE, ISSUED TO ROBERT W. ATTHOWE AND KATHERINE V. ATTHOWE.

2. AUTHORIZE ISSUANCE OF A GENERAL LEASE - RECREATIONAL AND PROTECTIVE STRUCTURE USE TO LINDA LOUDER, BEGINNING AUGUST 22, 2008, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING UNCOVERED FLOATING BOAT DOCK, TWO DOLPHINS, GANGWAY, AND THE RETENTION OF BANK PROTECTION AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION FOR THE UNCOVERED FLOATING BOAT DOCK, TWO DOLPHINS, AND GANGWAY: NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; 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 \$500,000.