

**CALENDAR ITEM
C17**

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01/29/09
WP 7794.9
V. Caldwell

GENERAL LEASE - RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

William J. Koenig and Jane O'Green Koenig, Co-Trustees of the Koenig Family Trust, dated February 20, 2001

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Sacramento River, near the city of Sacramento, adjacent to 4027 Garden Highway, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered single-berth floating boat dock, four pilings, dolphin, gangway, bank protection, and the retention of a debris diverter with two dolphins as shown on Exhibit A.

LEASE TERM:

Ten years, beginning January 29, 2009.

CONSIDERATION:

Uncovered Single-Berth Floating Boat Dock, Four Pilings, Dolphin, Gangway, and Debris Diverter with Two Dolphins: 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 \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On November 15, 1994, the Commission authorized a General Lease - Recreational and Protective Structure Use to William J. Koenig and Jane

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O'Green Koenig. Subsequently, the property was placed into the William J. Koenig and Jane O'Green Koenig, Co-Trustees of the Koenig Family Trust, dated February 20, 2001. That lease expired on August 31, 2004 and the Applicants submitted an application for a new lease.

3. In August of 2003, the Applicants placed a debris diverter with two dolphins without prior authorization from the Commission. On March 26, 2008, the U.S. Army Corps of Engineers issued a permit to the Applicants to modify the original June 2, 1994 permit to retain the debris diverter with two dolphins.
4. The Applicants qualify for the rent free use of the uncovered single-berth floating boat dock, four pilings, dolphin, gangway, and debris diverter with two dolphins because the Applicants are natural persons who own the littoral land that is improved with a single-family dwelling pursuant to Public Resources Code Section 6503.5.
5. The bank protection will mutually benefit both the public and the Applicants. The bank of the Sacramento River will have the additional protection from wave action provided at no cost to the public.
6. **Uncovered Single-Berth Floating Boat Dock, Four Pilings, Dolphin, Gangway 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. **Debris Diverter with Two Dolphins:** 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 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 15303.

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

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8. 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.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers

EXHIBIT:

A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

UNCOVERED SINGLE-BERTH FLOATING BOAT DOCK, FOUR PILINGS, DOLPHIN, GANGWAY 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).

DEBRIS DIVERTER WITH TWO DOLPHINS: 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 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 15303.

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:

AUTHORIZE ISSUANCE OF A GENERAL LEASE - RECREATIONAL AND PROTECTIVE STRUCTURE USE TO WILLIAM J. KOENIG AND JANE O'GREEN KOENIG, CO-TRUSTEES OF THE KOENIG FAMILY TRUST, DATED FEBRUARY 20, 2001, BEGINNING JANUARY 29, 2009, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND

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MAINTENANCE OF AN EXISTING UNCOVERED SINGLE-BERTH FLOATING BOAT DOCK, FOUR PILINGS, DOLPHIN, GANGWAY, BANK PROTECTION, AND THE RETENTION OF A DEBRIS DIVERTER WITH TWO DOLPHINS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION FOR THE UNCOVERED SINGLE-BERTH FLOATING BOAT DOCK, FOUR PILINGS, DOLPHIN, GANGWAY, AND DEBRIS DIVERTER WITH TWO DOLPHINS: 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 RENT 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.