

**CALENDAR ITEM  
C08**

A 9  
S 16

08/20/10  
WP 7357.9  
V. Caldwell

**GENERAL LEASE – RECREATIONAL AND PROTECTIVE  
STRUCTURE USE**

**APPLICANTS:**

The Bermudez Family Trust, dated May 31, 1996, Eduardo S. Bermudez and Rita B. Bermudez, Trustors and/or Trustees

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Sacramento River, adjacent to 2427 Garden Highway, near the city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of existing bank protection, and the retention of an existing covered single-berth floating boat dock, four pilings, gangway, and two electrical boxes, as shown on Exhibit A.

**LEASE TERM:**

Ten years, beginning November 1, 2009.

**CONSIDERATION:**

**Covered Single-Berth Floating Boat Dock, Four Pilings, Gangway, and Two Electrical Boxes:** 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 coverage of no less than \$1,000,000.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the uplands adjoining the lease premises.

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2. On December 12, 1989, the Commission authorized a General Lease – Recreational and Protective Structure Use to Donald and Donyne Wharton for the construction of an eight-foot by 100-foot uncovered floating dock, six steel pilings, 50-foot gangway, and 199 cubic yards of riprap. In 1997, prior to the expiration of the lease, the upland property was transferred to Eduardo S. Bermudez and Rita B. Bermudez. On November 1, 1999, the Commission authorized a termination of the lease and issuance of a new lease to the Bermudez's for the above dock structure and riprap and in 2000, the Bermudez's transferred the upland property to the Bermudez Family Trust dated 5/31/96, Eduardo S. Bermudez and Rita B. Bermudez, Trustors and /or Trustees. The lease expired October 31, 2009, and the Applicants are now applying for a new General Lease Recreational and Protective Structure Use.
3. After reviewing the current application, staff became aware that the dock was not constructed as previously authorized by the Commission in 1990. The as-built facilities include a 35-foot by 83.5-foot covered single berth floating dock with a height of 21 feet, four pilings, a 60-foot long gangway, two electrical boxes, and bank protection. On April 15, 2010, the U.S. Army Corps of Engineers issued a Letter of Permission to the Applicants to retain the existing docking facilities.
4. The Applicants qualify for rent-free use of the covered single-berth floating boat dock, four pilings, gangway, and two electrical boxes because they are natural persons who own the littoral land that is improved with a single family dwelling.
5. The bank protection will mutually benefit both the public and the Applicants. The bank of the Sacramento River will have additional protection from wave action provided at no cost to the public.
6. **Existing Bank Protection:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff determined that this activity is exempt from the requirements of 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.

CALENDAR ITEM NO. **C08** (CONT'D)

7. **Retention of a Covered Single-Berth Floating Boat Dock, Four Pilings, Gangway, and Two Electrical Boxes:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff determined that this activity is exempt from the requirements of 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 2905 (c)(1).

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. 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. 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:**

**Existing Bank Protection:** Find that the activity is exempt from the requirements of 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).

**Retention of a Covered Single-Berth Floating Boat Dock, Four Pilings, Gangway, and Two Electrical Boxes:** Find that the activity is exempt from the requirements of 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 2905 (c)(1).

**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.

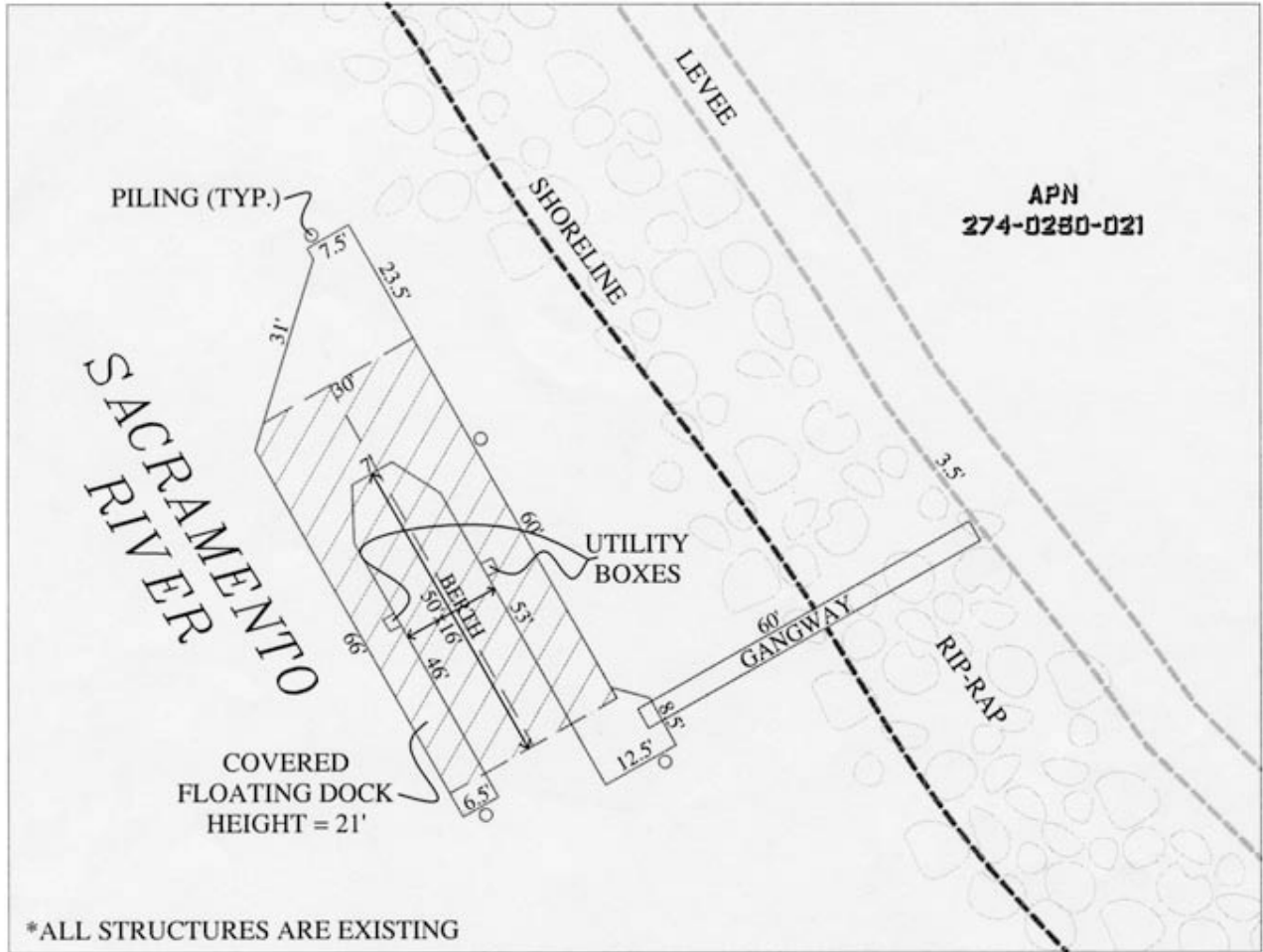
CALENDAR ITEM NO. **C08** (CONT'D)

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Bermudez Family Trust, dated May 31, 1996, Eduardo S. Bermudez and Rita B. Bermudez, Trustors and/or Trustees, beginning November 1, 2009, for a term of ten years, for the continued use and maintenance of existing bank protection; and the retention of an existing covered single-berth floating boat dock, four pilings, gangway, and two electrical boxes, shown on Exhibit A attached and by this reference made a part hereof; consideration for the existing covered single-berth floating boat dock, four pilings, gangway, and two electrical boxes: 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 \$1,000,000.

NO SCALE

# SITE



2427 Garden Highway, Sacramento River

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit A

WP 7357.9  
 APN 274-0250-021  
 BERMUDEZ FAMILY TRUST  
 GENERAL LEASE-RECREATIONAL  
 & PROTECTIVE STRUCTURE USE  
 SACRAMENTO COUNTY



MJF 7/22/09

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.