

**CALENDAR ITEM  
C13**

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04/06/11

S 4, 6

WP 6042.9

V. Caldwell

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

**LESSEE/APPLICANTS:**

Paul D. Thayer and Martha H. Lennihan

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

Sovereign land in the Sacramento River, adjacent to 6645 Garden Highway, Sacramento County.

**AUTHORIZED USE:**

Removal of an existing uncovered floating boat dock, two pilings, and gangway; construction of a new uncovered single-berth floating boat dock with galvanized cables, three steel pilings, gangway, and utility conduit; and continued use and maintenance of existing bank protection as shown on Exhibit A.

**LEASE TERM:**

10 years, beginning April 6, 2011.

**CONSIDERATION:**

**Uncovered single-berth floating boat dock with galvanized cables, three steel pilings, gangway, and utility conduit:** 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:**

Insurance:

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

Other:

1. The lease provides that all proposed in-water construction must occur between August 1 and November 30 to avoid impacts to spawning salmonids.

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**OTHER PERTINENT INFORMATION:**

1. Applicants own the uplands adjoining the lease premises.
2. On August 19, 2003, the Commission authorized a General Lease – Recreational and Protective Structure Use to Paul D. Thayer and Martha H. Lennihan. That lease will expire on August 26, 2013. The Applicants are applying for termination of the existing lease and issuance of a new General Lease – Recreational and Protective Structure Use.
3. The existing uncovered floating boat dock, two pilings, and gangway were damaged in 2010 by a falling tree. The damaged dock and gangway will be removed by crane and placed on a barge and will either be recycled or disposed of at a landfill site. The two existing creosote treated pilings will be cut off three feet below the mudline, as authorized by the U.S. Army Corps of Engineers and the Department of Fish and Game; stubs of the pilings will remain on the upland property for the Applicants' future use.
4. The new uncovered single-berth floating boat dock and gangway will be assembled off site and floated in using a barge. The gangway will be lowered into position using a barge-mounted crane. The dock and gangway will consist of metal frames, aluminum or Trex-type decking. Three steel pilings will be driven into the river bottom by a pile driving barge. Galvanized cables will be attached to two of the three pilings and anchored to an existing deadman. Electrical and water conduits will be placed on the gangway, providing service to the dock. A light pole will be placed on the dock. Two steel posts will be placed vertically on top of the bank as guides for the gangway during high waters.
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 CEQA because it is not a "project" as defined by 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. **Removal of Existing Uncovered Floating Boat Dock, Two Pilings, 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 CEQA as a categorically exempt project. The project is

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exempt under Class 4, Minor Alteration to Land; Title 14, California Code of Regulations, section 15304.

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

7. **New Uncovered Single-Berth Floating Boat Dock with Galvanized Cables, Three Steel Pilings, Gangway, and Utility Conduit:** 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 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. **Existing 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 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.

9. 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

**APPROVALS REQUIRED:**

United States Army Corps of Engineers, United States Fish and Wildlife Service, NOAA Marine Fisheries Service, Central Valley Regional Water Quality Control Board, Central Valley Flood Protection Board, California Department of Fish and Game, Reclamation District 1000, and Sacramento County

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**EXHIBIT:**

- A. Site and Location Map

**PERMIT STREAMLINING ACT DEADLINE:**

May 22, 2011

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Termination of Existing Lease:** Find that this activity is not subject to the requirements of 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.

**Removal of Existing Uncovered Floating Boat Dock, Two Pilings, and Gangway:** 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 4, Minor Alteration to Land; Title 14, California Code of Regulations, section 15304.

**New Uncovered Single-Berth Floating Boat Dock with Galvanized Cables, Three Steel Pilings, Gangway, and Utility Conduit:** 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).

**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).

**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 section 6370, et seq.

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**AUTHORIZATION:**

1. Authorize the termination of General Lease - Recreational and Protective Structure Use, Lease No. PRC 6042.9, effective April 5, 2011.
  
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Paul D. Thayer and Martha H. Lennihan beginning April 6, 2011, for a term of 10 years, for the removal of an existing uncovered floating boat dock, two pilings, and gangway; construction of a new uncovered single-berth floating boat dock with galvanized cables, three steel pilings, gangway, and utility conduit; and the continued use and maintenance of existing bank protection as shown on Exhibit A attached and by this reference made a part hereof; consideration for the uncovered single-berth floating boat dock with galvanized cables, three steel pilings, gangway, and utility conduit; 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.