

MINUTE ITEM
This Calendar Item No. ~~C25~~ was approved as
Minute Item No. 25 by the California State Lands
Commission by a vote of 3 to 0 at its
06/28/07 meeting.

CALENDAR ITEM
C25

A 5

06/28/07

S 6

PRC 4655

WP 4655.9

M. Clark

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

LESSEES:

Bernard G. Shute and Florence Margaret Shute

APPLICANT:

Kim Thoa Duong, Trustee, or her successors in Trust, under the Duong Family
Trust "B" dated November 21, 1990

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Sacramento River, city of Sacramento, Sacramento
County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock,
walkway, and bank protection as shown on Exhibit A.

LEASE TERM:

Ten years, beginning May 10, 2007.

CONSIDERATION:

Uncovered Floating Dock and Walkway: 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 in the amount of no less than \$500,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. On April 9, 2002, the Commission issued a ten-year Recreational Pier Lease to Bernard G. Shute and Florence Margaret Shute for an uncovered floating dock and walkway. The upland was subsequently transferred to Kim Thoa Duong, Trustee, or her successors in Trust, under the Duong Family Trust "B" dated November 21, 1990, who has applied for a new lease which will include bank protection. Staff is recommending termination of the existing lease and issuance of a new lease to the Applicant. Applicant qualifies for the rent free use of the uncovered floating boat dock and walkway because she is a natural person who has improved the littoral land with, and uses the upland for, a single-family dwelling.
3. The bank protection at this location mutually benefits 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.
4. **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.

5. **Issuance of New Lease: Floating Dock and Walkway:** 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.

Bank Protection: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations,

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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 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.

6. 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.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF 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.

ISSUANCE OF NEW LEASE:

FLOATING DOCK AND WALKWAY: 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,

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CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 4, MINOR ALTERATIONS TO LAND; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (d)(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:

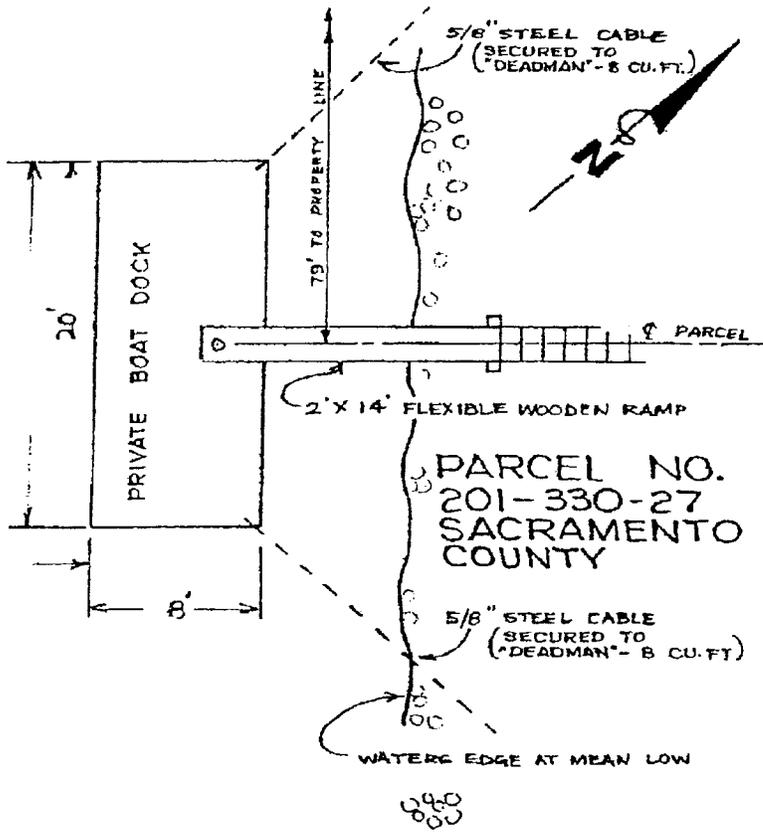
1. AUTHORIZE THE TERMINATION, EFFECTIVE MAY 9, 2007, OF LEASE NO. PRC 4655.9, A RECREATIONAL PIER LEASE, ISSUED TO BERNARD G. SHUTE AND FLORENCE MARGARET SHUTE.

2. AUTHORIZE ISSUANCE TO KIM THOA DUONG, TRUSTEE, OR HER SUCCESSORS IN TRUST, UNDER THE DUONG FAMILY TRUST "B" DATED NOVEMBER 21, 1990, OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE, BEGINNING MAY 10, 2007, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING UNCOVERED FLOATING BOAT DOCK, WALKWAY, AND BANK PROTECTION AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION FOR THE UNCOVERED FLOATING DOCK AND WALKWAY; NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; AND 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; LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$500,000.

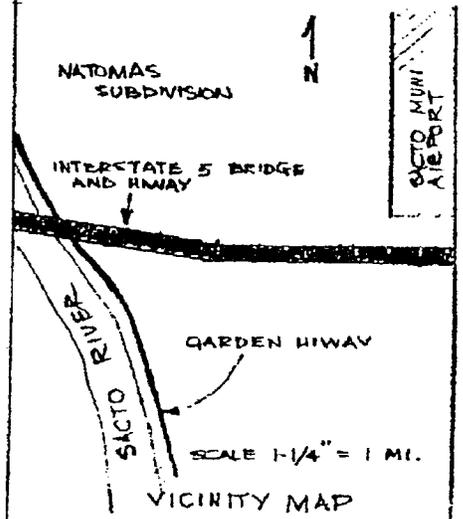
SITE MAP

No. 4861

SACRAMENTO RIVER FLOW



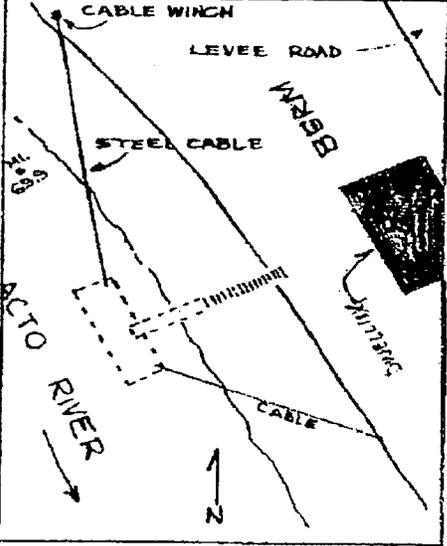
PARCEL NO.
201-330-27
SACRAMENTO
COUNTY



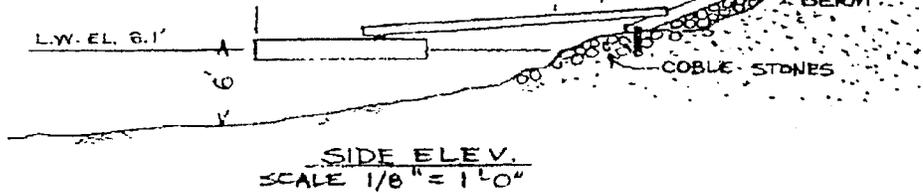
PLAN
SCALE: 1/8" = 1'-0"

FLOOD PLANE
EL. 37.5'

MATERIALS
WOOD FRAME
4' X 8' PLYWOOD DECK
STYROFOAM FLOTATION



This Land description is solely for purposes of generally defining the lease premises, 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.



SIDE ELEV.
SCALE 1/8" = 1'-0"

This exhibit is solely for purposes of generally defining the area to be leased, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or other property.

EXHIBIT A
Kim Thoa Duong
PRC 4655.9