

**CALENDAR ITEM
C57**

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03/25/08
PRC 5637.1
J. McComas

**CONSIDER AN EXTENSION TO CURE DEFAULTS OF A
GENERAL LEASE – COMMERCIAL USE**

LESSEE:

Shawn Berrigan and Diane House

AREA, LAND TYPE, AND LOCATION:

0.765 acres, more or less, of sovereign lands in the Sacramento River, town of Courtland, Sacramento County.

AUTHORIZED USE:

Operation, use and maintenance of a commercial marina, known as Courtland Docks, for the berthing of boats and existing dock.

LEASE TERM:

Ten years, beginning October 22, 2008.

CONSIDERATION:

A minimum annual rent of \$2,100 against a five percent of annual gross income from berthing and ten percent of gross income derived from all other activities conducted on or over the Lease Premises, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease.

PROPOSED EXTENSION:

Extend the period to cure defaults of the lease for an additional 60 days, from March 2, 2008 to May 1, 2008. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Lessee owns the uplands adjoining the lease premises.
2. On December 3, 2007, the Commission authorized a General Lease – Commercial Use to Shawn Berrigan and Diane House for the operation, use and maintenance of a commercial marina, known as Courtland Docks.

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Prior to the Commission's approval of the lease, it was brought to staff's attention that the docks were in a state of disrepair. The lease was approved with the condition that the defaults would be cured within 90 days. Due to circumstances beyond the Lessee's control, the defaults were not cured within the 90 day period.

3. Staff has been monitoring the Lessee's progress and the Lessees have taken the following steps to cure the defaults:

Pursuant to the terms of the Lease, Lessees were required to relocate a wall that trespassed upon State sovereign lands. The deadline for removal was March 1, 2008. Lessee has relocated the wall and it is no longer in trespass.

Lessees have begun the removal of the dilapidated docks, but due to severe winter weather have not been able to complete the removal.

Lessees have purchased new docks that will be delivered and installed this Spring.

Lessees have been unable to secure a bond, but will provide a Certificate of Deposit in the amount of \$50,000 in lieu of a bond once they obtain a small business loan.

4. Based on the Lessees' efforts and progress to date, staff is recommending that the Commission extend the period to cure the defaults under the lease from March 2, 2008 to May 1, 2008.
5. 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 21056 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQS review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14M CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY THE PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

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.

AUTHORIZATION:

AUTHORIZE THE EXTENSION OF THE PERIOD TO CURE DEFAULTS OF LEASE NO. PRC 5637.1, A GENERAL LEASE – COMMERCIAL USE, OF LANDS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, FROM MARCH 2, 2008, TO MAY 1, 2008; ALL OTHER TERMS AND CONDITIONS OF THE LEASE SHALL REMAIN IN EFFECT WITHOUT AMENDMENT.