

**CALENDAR ITEM
C24**

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WP 5577.1

C. Hudson

GENERAL LEASE - RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Joseph Tony Zeiter

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the San Joaquin River, adjacent to 3700 Country Club Boulevard, near Atherton Cove, city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of two existing floating dock facilities consisting of three covered berths, two ramps, a tri-level sundeck, 41 pilings, and bank protection; and the retention of one existing covered berth and three boat lifts as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning March 23, 2009.

CONSIDERATION:

Uncovered Floating Boat Dock, Four Covered Berth Floating Boat Docks, Three Boat Lifts, Two Ramps, and 17 pilings: 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.

Tri-Level Sundeck with 24 Pilings: \$875 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance with coverage of no less than \$1,000,000.

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Other:

The lease contains provisions that the existing sundeck, as shown on the attached Exhibit A, cannot be expanded, and if repairs to any portion of the sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck must be removed from the lease premises.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On April 13, 1999, the Commission authorized a Recreational Pier Lease with Joseph Tony Zeiter. That lease expired on March 22, 2009. The Applicant is now applying for a new General Lease – Recreational and Protective Structure Use.
3. The boat dock facility located adjacent to the east side of the upland parcel is improved with an uncovered floating boat dock, covered berth floating boat dock, and ramp; the west side is improved with two covered berth floating boat docks, ramp, and 17 pilings; between the docks lies a tri-level sundeck with 24 pilings previously authorized by the Commission. However, within a short time after the Commission approved the prior lease in 1999, the Applicant installed additional improvements to the east and west docks. An additional covered berth dock with a boat lift was installed at the east dock (no pilings) and two boat lifts were installed in the covered berths on the west dock. These improvements were not previously authorized by the Commission; however, staff has confirmed with the U.S. Army Corps of Engineers and the Central Valley Flood Protection Board that no permits were needed for these improvements. Existing bank protection has existed for many years and is now being incorporated in this lease.
4. The uncovered floating boat dock, four covered berth docks, three boat lifts, two ramps, and 17 pilings are exempt from consideration pursuant to Public Resources Code section 6503.5 because the Applicant is a natural person who owns the littoral land as a natural person. However, the tri-level sundeck with 24 pilings does not qualify for rent-free status because it is not constructed for the mooring and docking of boats.
5. The bank protection will mutually benefit both the public and the Applicant. The bank of the San Joaquin River along Atherton Cove will have additional protection from wave action provided at no cost to the public.

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6. **Uncovered Floating Boat Dock, Three Covered Berths, Two Ramps, Tri-Level Sundeck, 41 Pilings, 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 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. **Retention of One Covered Berth Floating Boat Dock and Three Boat Lifts:** 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. 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
- B. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Uncovered Floating Boat Dock, Three Covered Berth Floating Boat Docks, Two Ramps, Tri-Level Sundeck, 41 Pilings, and Bank Protection: Find that the activity is exempt from the requirements of

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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 One Covered Berth Floating Boat Dock and Three Boat Lifts: 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Joseph Tony Zeiter, beginning March 23, 2009, for a term of 10 years, for the continued use and maintenance of two existing floating dock facilities consisting of three covered berths, two ramps, a tri-level sundeck, 41 pilings, and bank protection; and the retention of one existing covered berth and three boat lifts as shown on Exhibit A (for reference purposes only) and described in Exhibit B attached and by this reference made a part hereof; consideration for the two floating boat dock facilities with 17 pilings: no monetary consideration pursuant to Public Resources Code 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; consideration for the tri-level sundeck with 24 pilings: annual rent in the amount of \$875 with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease; and liability insurance with coverage of no less than \$1,000,000.