

**CALENDAR ITEM
C07**

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06/24/08
PRC 8155.1
R. Barham

**TERMINATION OF A GENERAL LEASE - PUBLIC AGENCY USE
AND ISSUANCE OF A GENERAL LEASE - COMMERCIAL USE**

LESSEE/APPLICANT:

Spalding Community Service District
502-907 Mahogany Way
Susanville, CA 96130

AREA, LAND TYPE, AND LOCATION:

18.94 acres, more or less, of sovereign lands in the bed of Eagle Lake, near Susanville, Lassen County.

AUTHORIZED USE:

Continued use, maintenance and operation of an existing marina facility known as the "Spalding Marina" comprised of two boat launching ramp facilities, a fishing pier, one permanent floating courtesy dock, two floating breakwaters, four mooring buoys, swimming area with swim float, ten seasonally operated recreational and commercial floating boat docks, and rock slope bank protection as shown on the attached Exhibit A.

LEASE TERM:

20 years, beginning April 1, 2008.

CONSIDERATION:

Public Facilities (boat launch, fishing pier with platform, one permanent floating courtesy dock, two floating breakwaters, four mooring buoys, open swim area with swim float and rock slope 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 best interest of the State.

Recreational and Commercial Docks: Five percent of the Lessee's gross annual income from the issuance of annual dock permits; five percent of the Lessee's and/or Operator's gross annual income derived from the commercial activities of mooring, berthing and boat rentals; ten percent of the Lessee's and/or Operator's gross annual income derived from all unauthorized activities conducted on or

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over the Lease Premises; with a minimum annual rent of \$500; and 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.

Other:

The lease includes engineering specifications for the conversion of docks from seasonal to permanent, which are included in the "Spalding Marina Requirements for Year-Round Mooring Float Structures".

The lease contains provisions that the Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and incorporate the Commission's "Best Management Practices for Berth Holders and Boaters" into Lessee's berth rental agreements, including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. In addition to the inclusion of the BMPs for Berth Holders and Boaters into the berth rental agreements, the Lessee shall post such publication in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On April 20, 2000, the Commission authorized the issuance of a General Lease - Public Agency Use with the Spalding Community Service District (District) for an existing launch ramp, 34 existing seasonal docks and three anchored mooring floats, used in conjunction with the Spalding Marina. That lease will expire on March 31, 2020.
3. In 2001, the District received grants from the California Department of Boating and Waterways and the California Wildlife and Conservation Board for the development of the "Spalding Marina Improvement Project" (Project) to facilitate improvement to the existing marina to ensure that the operation of the marina and the ancillary onshore public health/safety facilities were installed and managed in a way that enhances recreational use while protecting the fragile Eagle Lake natural environment.

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4. On August 19, 2003, the Commission authorized an amendment to the lease for the construction of the Project which included two launching ramps with courtesy mooring floats, channel dredging for the installation of the launch ramps, 15 seasonal docks with a capacity of 320 berths, a public courtesy dock and five berths for short-term hourly public dockage, two floating breakwaters, one public fishing pier, four mooring buoys, a seasonal swim area with a swim platform, and rock slope bank protection. All of the docks were seasonal, requiring removal by December 1 of each year due to excessive ice and windy conditions common to Eagle Lake. Docks could only remain in the Lake year-round if the District determined that a dock was to be constructed in conformance with the engineering requirements described in the "Bid Specifications for the Spalding Marina Improvement Project" (Specifications), which were developed for the Project.
5. In July 2007, staff was contacted by the District requesting clarification regarding the dock Specifications for the proposed conversion of one of the seasonal docks. At that time, staff became aware that the marina operation included commercial activities along with the public facilities.
6. Subsequently, the District submitted an application requesting that the prior General Lease - Public Agency Use be terminated and that a new General Lease - Commercial Use be considered to include the District's current operation and commercial activities. The District requested that the number of previously authorized seasonal docks be reduced from 15 to ten, thereby reducing the total number of berths from 320 to 279. The District is also requesting that five of the docks, having a maximum capacity of 220 berths, be authorized for commercial activities and the remaining five docks, having a maximum capacity of 59 berths, be used for recreational use by local district boaters. The District will continue to issue seasonal permits for each of the docks and manage the marina operations. In addition, the application contains revised engineering specifications for the conversion of seasonal docks to year-round docks that were prepared by a licensed civil engineer to replace the original specifications, which were found to be unclear and inadequate. Staff is recommending termination of the existing lease and issuance of a new lease to allow for the change in facilities, operation and activities on the lease premises.
7. **Termination of 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

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“project” as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code Section 21065 and Title 14, California Code of Regulations, section 15060(c)(3) and 15378.

8. **Issuance of New Lease:** A Mitigated Negative Declaration was prepared and adopted for this project by the Spalding Community Service District. The California State Lands Commission’s staff has reviewed such document. A Mitigation Monitoring Program was adopted by the Spalding Community Services District.
9. 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.

EXHIBITS:

- A. Location and site map
- B. Land Description

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE:

FIND THAT THE ACTIVITY IS EXEMPT FROM 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:

FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE SPALDING COMMUNITY SERVICE DISTRICT AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED WITHIN THE MND.

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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 TERMINATION OF GENERAL LEASE-PUBLIC AGENCY USE NO. PRC 8155.9, EFFECTIVE MARCH 31, 2008, ISSUED TO SPALDING COMMUNITY SERVICE DISTRICT AND APPROVED BY THE COMMISSION ON APRIL 20, 2000.

AUTHORIZE ISSUANCE OF A GENERAL LEASE - COMMERCIAL USE TO THE SPALDING COMMUNITY SERVICE DISTRICT BEGINNING APRIL 1, 2008, FOR A TERM OF 20 YEARS, FOR THE CONTINUED USE, MAINTENANCE, AND OPERATION OF THE "SPALDING MARINA" CONSISTING OF TWO BOAT LAUNCHING RAMPS, FISHING PIER, ONE PERMANENT FLOATING COURTESY DOCK, TWO FLOATING BREAKWATERS, FOUR MOORING BUOYS, OPEN SWIM AREA WITH SWIM FLOAT, TEN SEASONAL RECREATIONAL AND COMMERCIAL FLOATING BOAT DOCKS AND ROCK SLOPE BANK PROTECTION, AS SHOWN ON EXHIBIT A ATTACHED AND DESCRIBED ON EXHIBIT B, AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION FOR THE PUBLIC FACILITIES (BOAT LAUNCH, FISHING PIER, ONE PERMANENT FLOATING COURTESY DOCK, TWO FLOATING BREAKWATERS, FOUR MOORING BUOYS, OPEN SWIM AREA WITH SWIM FLOAT AND ROCK SLOPE 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; CONSIDERATION FOR THE RECREATIONAL AND COMMERCIAL DOCKS: FIVE PERCENT OF GROSS INCOME DERIVED FROM LESSEE'S ISSUANCE OF ANNUAL DOCK PERMITS, FIVE PERCENT OF GROSS INCOME DERIVED FROM THE AUTHORIZED COMMERCIAL ACTIVITIES, TEN PERCENT OF GROSS INCOME DERIVED FROM ALL UNAUTHORIZED ACTIVITIES, WITH A MINIMUM ANNUAL RENT IN THE AMOUNT OF \$500; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; AND LIABILITY INSURANCE COVERAGE OF NO LESS THAN \$1,000,000.