

**CALENDAR ITEM
C20**

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08/22/08
WP 8173.1
D. Jones

**TERMINATION OF A RECREATIONAL PIER LEASE AND
ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE**

LESSEE:

Jeffrey A. Hart

APPLICANT:

Jeffrey A. Hart, dba Hart Restoration, Inc.
P. O. Box 439
Walnut Grove, CA 95690

AREA, LAND TYPE, AND LOCATION:

0.12 acres, more or less, of sovereign lands in Steamboat Slough, adjacent to 13737 Grand Island Road, in the town of Walnut Grove, Sacramento County.

AUTHORIZED USE:

The continued use, maintenance and operation of a tour boat operation known as Delta Ecotours involving an existing three-foot by 70-foot gangway; and the retention of a 22-foot by 38-foot single berth commercial boat dock, a 33-foot diagonal debris deflector used to accommodate loading and unloading of passengers, a boat lift, five pilings, and bank protection.

LEASE TERM:

Ten years, beginning August 22, 2008.

CONSIDERATION:

A minimum annual rental of \$600 against a percentage of gross receipts as follows:

2% for the tour boat operation
10% of all other gross income

SPECIFIC LEASE PROVISIONS:

Insurance:

Not less than \$3,000,000 Combined Single Limit

CALENDAR ITEM NO. **C20** (CONT'D)

Bond:

\$5,000

Other:

Lease provisions include Best Management Practices

OTHER PERTINENT INFORMATION:

1. Lessee/Applicant owns the uplands adjoining the lease premises.
2. On June 27, 2000, the Commission authorized a ten-year Recreational Pier Lease to Jeffrey A. Hart for the construction of a 21-foot by 48-foot floating dock with a three-foot by 70-foot gangway. That lease will expire on June 14, 2010. The "as-built" dock has a different configuration than what was approved by the Commission in 2000; namely, the current dock measures 22 feet by 38 feet with a 33-foot diagonal debris deflector used to accommodate loading and unloading of passengers, a boat lift, five pilings, and bank protection. In addition, in the last two years, Mr. Hart has been conducting boat tours, known as Delta Ecotours, from his dock in connection with his upland habitat restoration business. Mr. Hart contacted Commission staff prior to engaging in limited commercial operations. The dock is used to load and unload passengers for nearby excursions on a part-time, seasonal basis. Mr. Hart indicates the boat tour operation is occasionally used for public service, taking local, state and federal officials and representatives on educational tours of the Delta and only generates income from the Lease Premises. Staff is recommending termination of the existing Recreational Pier Lease and issuance of a new General Lease – Commercial Use.
3. Mr. Hart has agreed to pay back rent in the amount of \$1,200 for the period of August 22, 2006, through August 21, 2008.
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 a New Lease:**
Boat Dock, Gangway and Five Pilings: 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

CALENDAR ITEM NO. **C20** (CONT'D)

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.

Boat Lift, and Debris Deflector: 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 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c).

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, 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.

5. 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.

APPROVALS OBTAINED:

U. S. Army Corps of Engineers, Central Valley Flood Protection Board, and the California Department of Fish and Game

EXHIBITS:

- A. Lease Description
- B. Site and Location Map

CALENDAR ITEM NO. **C20** (CONT'D)

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING 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 A NEW LEASE:

BOAT DOCK, GANGWAY AND FIVE PILINGS: 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).

BOAT LIFT, AND DEBRIS DEFLECTOR: 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 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (c).

BANK PROTECTION: 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 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.

CALENDAR ITEM NO. **C20** (CONT'D)

AUTHORIZATION:

1. AUTHORIZE THE TERMINATION OF A RECREATIONAL PIER LEASE, LEASE NO. PRC 8173.9, EFFECTIVE AUGUST 21, 2008.
2. ACCEPT BACK RENT IN THE AMOUNT OF \$1,200 FOR THE PERIOD OF AUGUST 22, 2006 THROUGH AUGUST 21, 2008.
3. AUTHORIZE ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE TO JEFFREY A. HART, DBA HART RESTORATION, INC., BEGINNING AUGUST 22, 2008, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE, MAINTENANCE AND OPERATION OF A DELTA TOUR BOAT OPERATION KNOWN AS DELTA ECOTOURS, INVOLVING AN EXISTING GANGWAY, AND THE RETENTION OF A SINGLE BERTH COMMERCIAL BOAT DOCK, A DIAGONAL DEBRIS DEFLECTOR USED TO ACCOMMODATE LOADING AND UNLOADING OF PASSENGERS, A BOAT LIFT, FIVE PILINGS, AND BANK PROTECTION AS SHOWN ON EXHIBIT B AND DESCRIBED IN EXHIBIT A AND BY THIS REFERENCE MADE A PART HEREOF; MINIMUM ANNUAL RENT IN THE AMOUNT OF \$600, AGAINST A PERCENTAGE OF GROSS RECEIPTS OF 2% FOR THE TOUR BOAT OPERATION AND 10% OF ALL OTHER GROSS INCOME, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE WITH COVERAGE OF NO LESS THAN \$3,000,000; SURETY IN THE AMOUNT OF \$5,000.