

**CALENDAR ITEM
C23**

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10/22/09

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M. Clark

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Bud D. Klein and Jane E. Klein, Co-Trustees of the Bud D. Klein and Jane E. Klein Revocable Family Trust, dated June 12, 1989

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the historic channel of the San Joaquin River at Atherton Cove, adjacent to 11 Atherton Island, city of Stockton, San Joaquin County.

AUTHORIZED USE:

Retention, use, and maintenance of an existing boat dock with an enclosed boathouse with slip, boat lift, five pilings, ramp and bank protection as shown on Exhibit A.

LEASE TERM:

Ten years, beginning October 22, 2009.

CONSIDERATION:

Boat Dock with an Enclosed Boathouse with Slip, Boat Lift, Five Pilings, and Ramp: 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 with coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. The existing boat dock with an enclosed boathouse with slip, boat lift, five pilings, ramp, and existing bank protection were constructed by a prior

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upland owner sometime prior to 1968 without authorization from the Commission. However, the improvements were later permitted by the U.S. Army Corps of Engineers (Corps) in 1977. During a 2007 site inspection nearby, staff became aware of the dock facilities and contacted the Applicants. The Applicants are now applying for a General Lease - Recreational and Protective Structure Use.

3. Applicants qualify for the rent-free use of the boat dock with enclosed boathouse with slip, boat lift, five pilings, and ramp because they are natural persons who own the littoral land that is improved with a single-family dwelling.
4. The bank protection will mutually benefit both the public and the Applicants. The bank of the San Joaquin River along Atherton Cove will have additional protection from wave action provided at no cost to the public.
5. **Boat Dock, Enclosed Boathouse with Slip, Five Pilings and Ramp:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff 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)(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.

6. **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 alteration 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.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370,

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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

EXHIBIT:

A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

BOAT DOCK, BOATHOUSE WITH SLIP, BOAT LIFT, FIVE PILINGS AND RAMP: 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)(1).

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 ALTERATION 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:

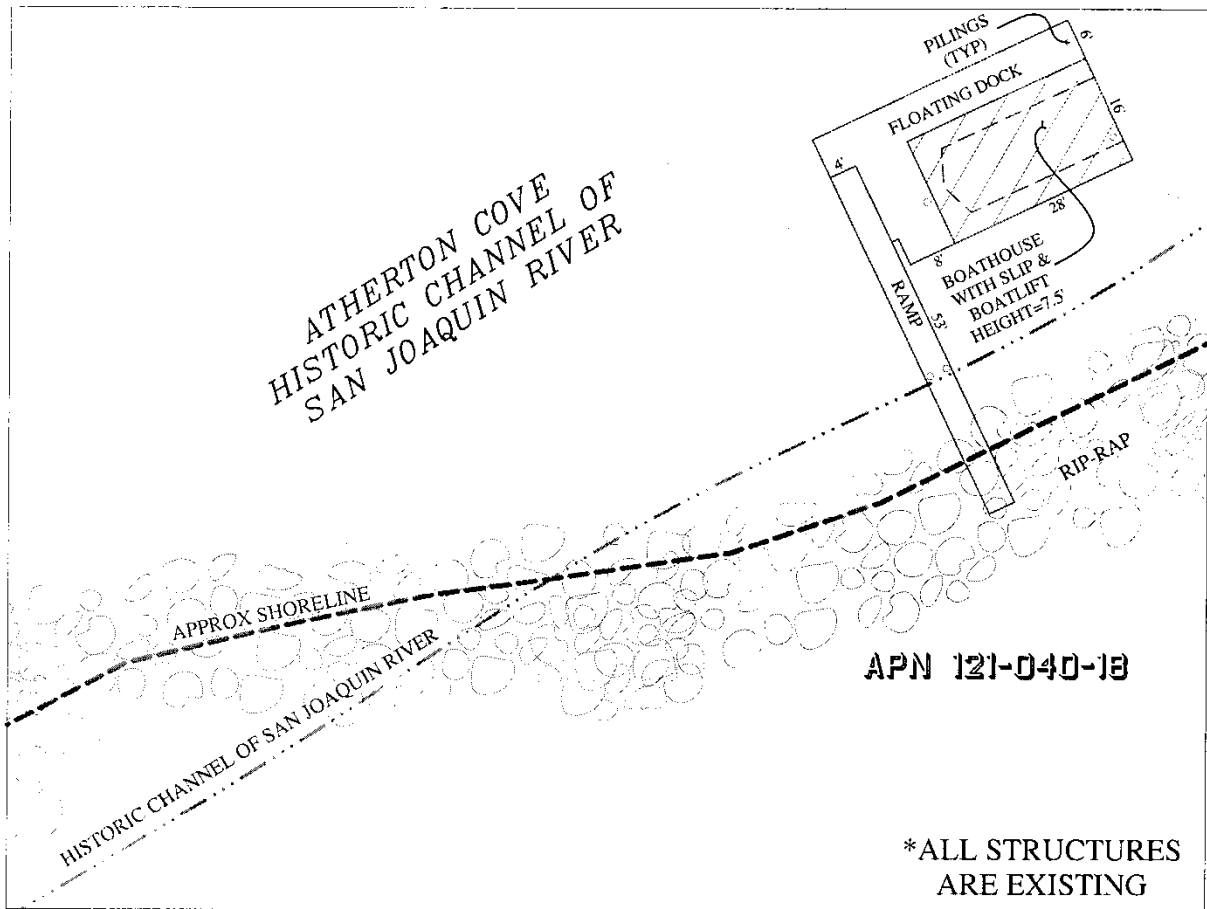
AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE, TO BUD D. KLEIN AND JANE E. KLEIN, CO-TRUSTEES OF THE BUD D. KLEIN AND JANE E. KLEIN REVOCABLE FAMILY TRUST, DATED JUNE 12, 1989, BEGINNING OCTOBER 22, 2009, FOR A TERM OF TEN YEARS, FOR THE RETENTION, USE, AND MAINTENANCE OF AN EXISITING BOAT

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DOCK WITH AN ENCLOSED BOATHOUSE WITH SLIP, BOAT LIFT, FIVE PILINGS, RAMP, AND BANK PROTECTION AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION FOR THE EXISTING BOAT DOCK WITH AN ENCLOSED BOAT SLIP, BOAT LIFT, FIVE PILINGS, AND RAMP: NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 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; AND LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000.

NO SCALE

SITE

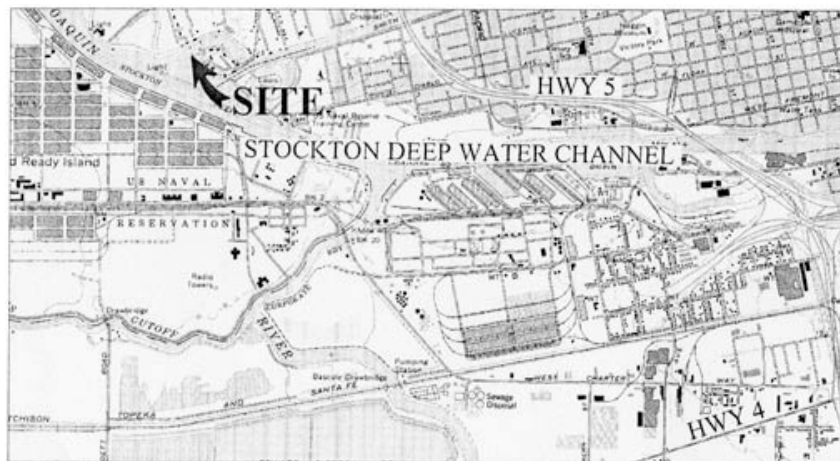


*ALL STRUCTURES ARE EXISTING

11 Atherton Island, Stockton

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

W 26260
 KLEIN TRUST
 APN 121-040-18
 GENERAL LEASE
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SAN JOAQUIN COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties 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.