

**CALENDAR ITEM
C32**

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01/26/11
WP 7461.1
C. Hudson

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

David E. Phillips and Shirley D. Phillips

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Calaveras River, adjacent to 2975 Calariva Drive, in the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing boathouse, uncovered floating boat dock, gangway, and four pilings as shown on the attached Exhibit B.

LEASE TERM:

10 years, beginning January 1, 2012.

CONSIDERATION:

\$188 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:

Liability insurance in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On April 24, 2001, the Commission authorized a Recreational Pier Lease, Lease No. PRC 7461.9 with David E. Phillips and Shirley D. Phillips. That lease expired on January 22, 2011. The Applicants are now applying for a new General Lease – Recreational Use.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the

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former section with a new section 6503.5 which provides that the State Lands Commission “shall charge rent for a private recreational pier constructed on state lands.” The law provides for two exceptions to the imposition of rent. Those exceptions are for:

- A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
- B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

This application did not meet either of the exceptions and is thus subject to rent.

- 4. Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 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; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

- 5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are “significant” by nature of their public ownership (as opposed to “environmentally significant”). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project’s consistency with the use classification as required by California Code of Regulations, Title 2, section 2954 is not applicable.

EXHIBITS:

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

CALENDAR ITEM NO. **C32** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to David E. Phillips and Shirley D. Phillips, beginning January 1, 2012, for a term of 10 years, for the continued use and maintenance of an existing boathouse, uncovered floating boat dock, gangway, and four pilings as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$188, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in the amount of no less than \$1,000,000.

EXHIBIT A

WP 7461.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Calaveras River, lying adjacent to Swamp and Overflowed Land Survey 924 patented April 19, 1876, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, boathouse, gangway and pilings lying adjacent to the left bank of said river and being adjacent to and northeasterly of "PARCEL ONE", as described in "Exhibit A" of that Grant Deed, recorded January 17, 1999 in Document Number 99154200 in Official Records of said County.

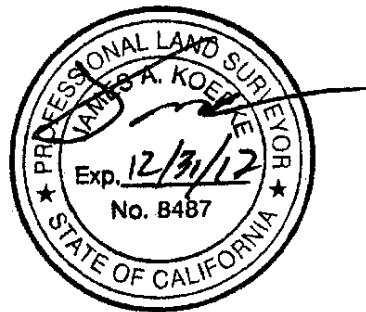
ALSO TOGETHER WITH a 10' use area.

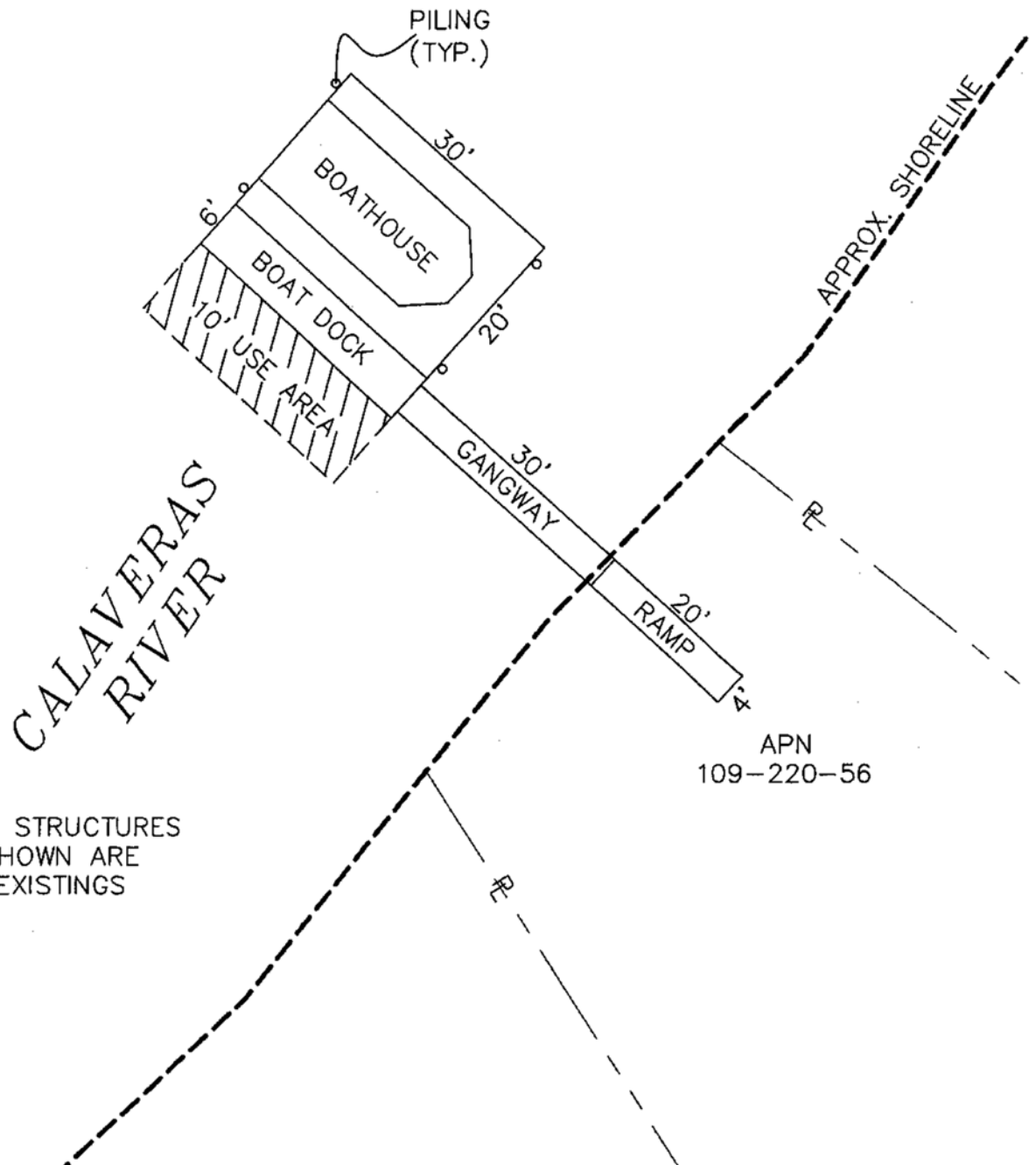
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 11/28/11 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





*ALL STRUCTURES SHOWN ARE EXISTINGS

APN
109-220-56

EXHIBIT A

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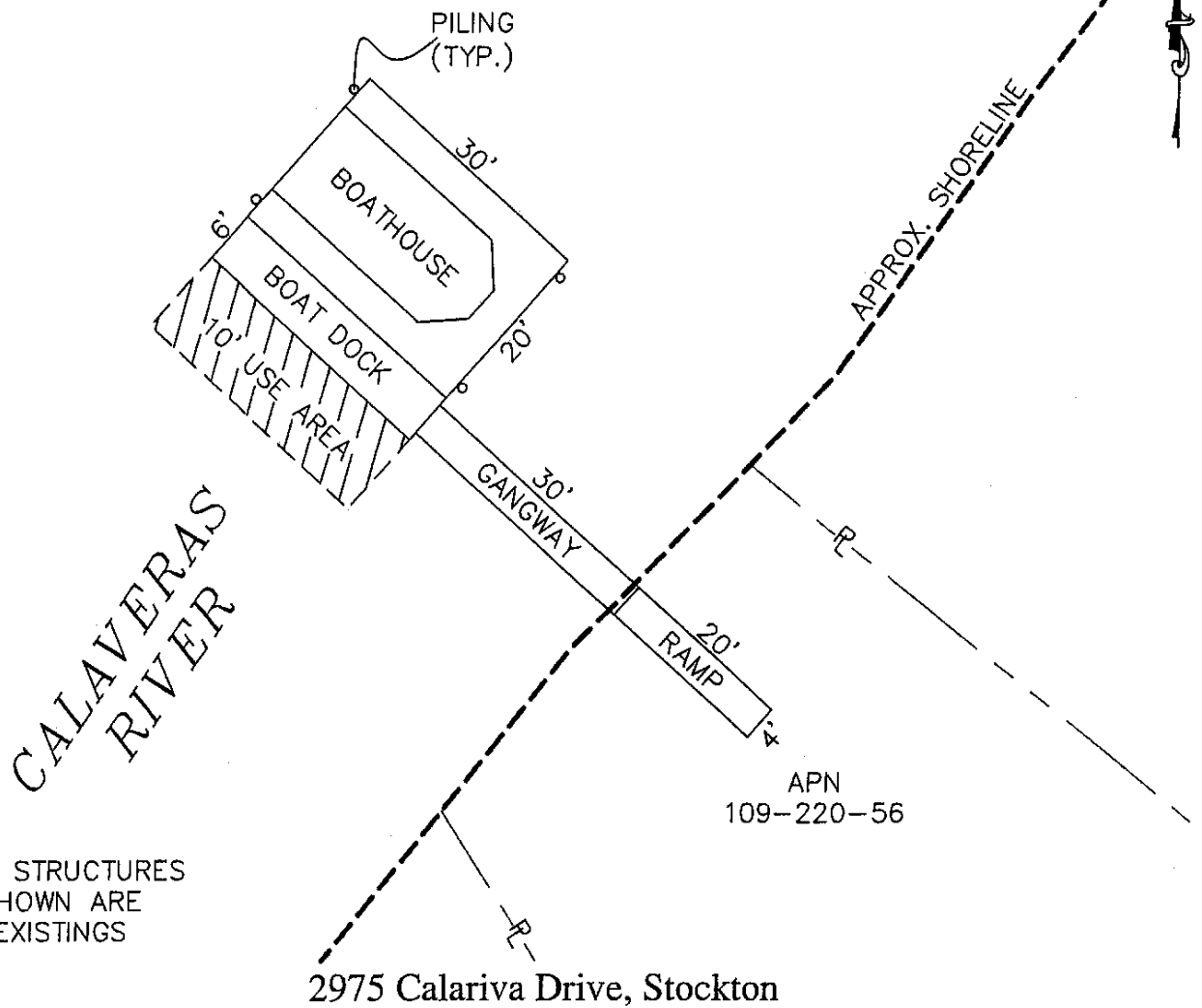
LAND DESCRIPTION PLAT
WP 7461.1 - PHILLIPS
SAN JOAQUIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



*ALL STRUCTURES SHOWN ARE EXISTINGS

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

WP 7461.1
 PHILLIPS
 APN 109-220-56
 GENERAL LEASE -
 RECREATIONAL USE
 SAN JOAQUIN COUNTY

