

**CALENDAR ITEM
C14**

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03/29/12
PRC 8744.1
R. Boggiano

**RESCISSION OF APPROVAL OF A RECREATIONAL PIER LEASE AND ISSUANCE
OF A NEW GENERAL LEASE - RECREATIONAL USE**

APPLICANT:

Pamela B. Wittpen, as Trustee of the Pamela B. Wittpen Family Trust dated August 29, 1995

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to Assessor's Parcel Number 031-0360-079 at Garcia Bend, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing uncovered floating boat dock, ramp, and four pilings.

LEASE TERM:

10 years, beginning March 29, 2012.

CONSIDERATION:

\$603 per year; with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

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

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On November 15, 1994, the Commission authorized an eight-year General Lease – Commercial Use, beginning on November 15, 1990 to Mabel M. Wittpen dba Garcia Bend Marina. That lease expired on November 14, 1998. In 2002, the Applicant acquired the property, and began the removal of old docks used in the commercial facilities. In 2002, the Applicant submitted an application for a new lease for modifications to the remaining dock facility, installation of a debris diverter, and removal of remaining pilings used in the

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commercial facilities. Between 2002 and 2006, the Applicant worked to obtain the necessary permits from other agencies for the project. During emergency levee repairs by the U. S. Army Corps of Engineers in 2007, seven abandoned pilings were removed from the river at this location.

3. On May 10, 2007, the Commission authorized a Recreational Pier Lease to the Applicant for the use and maintenance of the floating boat dock, gangway, and pilings. After Commission authorization, it came to staff's attention that the Applicant's upland property was not improved with a residence and therefore the Applicant did not qualify for a Recreational Pier Lease pursuant to Public Resources Code section 6503.5 as it existed at the time. The lease was never executed. Staff is now requesting that the authorization made by the Commission at its May 10, 2007 meeting be rescinded and that a new General Lease - Recreational Use be issued. The Applicant has agreed to the new lease.
4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This 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. The new section 6503.5 provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The Applicant does not qualify for rent-free status under the new law.
5. **Rescind Approval of a Recreational Pier Lease:** The staff recommends that the Commission find that the subject rescission of approval does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

6. **Issuance of a New Lease:** 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.

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

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Rescind Approval of a Recreational Pier Lease: Find that the subject Revision of Rent is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of a General Lease – Recreational Use: 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).

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 section 6370 et seq.

AUTHORIZATION:

1. Rescind its May 10, 2007 authorization of Recreational Pier Lease No. PRC 8744.9 to Pamela B. Wittpen, Trustee of the Mabel M. Wittpen Family Trust Dated August 2, 1983.
2. Authorize issuance of a General Lease – Recreational Use to Pamela B. Wittpen, as Trustee of the Pamela B. Wittpen Family Trust dated August 29, 1995, beginning March 29, 2012, for a term of 10 years, for the use and maintenance of an existing uncovered

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floating boat dock, ramp, 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 \$603, 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

PRC 8744.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Survey 165, patented November 17, 1874 in the County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, ramp, and pilings adjacent to that Parcel as described in that Quitclaim Deed recorded January 26, 2001 in Book 20010126 Page 363 in Official Records of said County.

TOGETHER WITH a ten foot use area.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

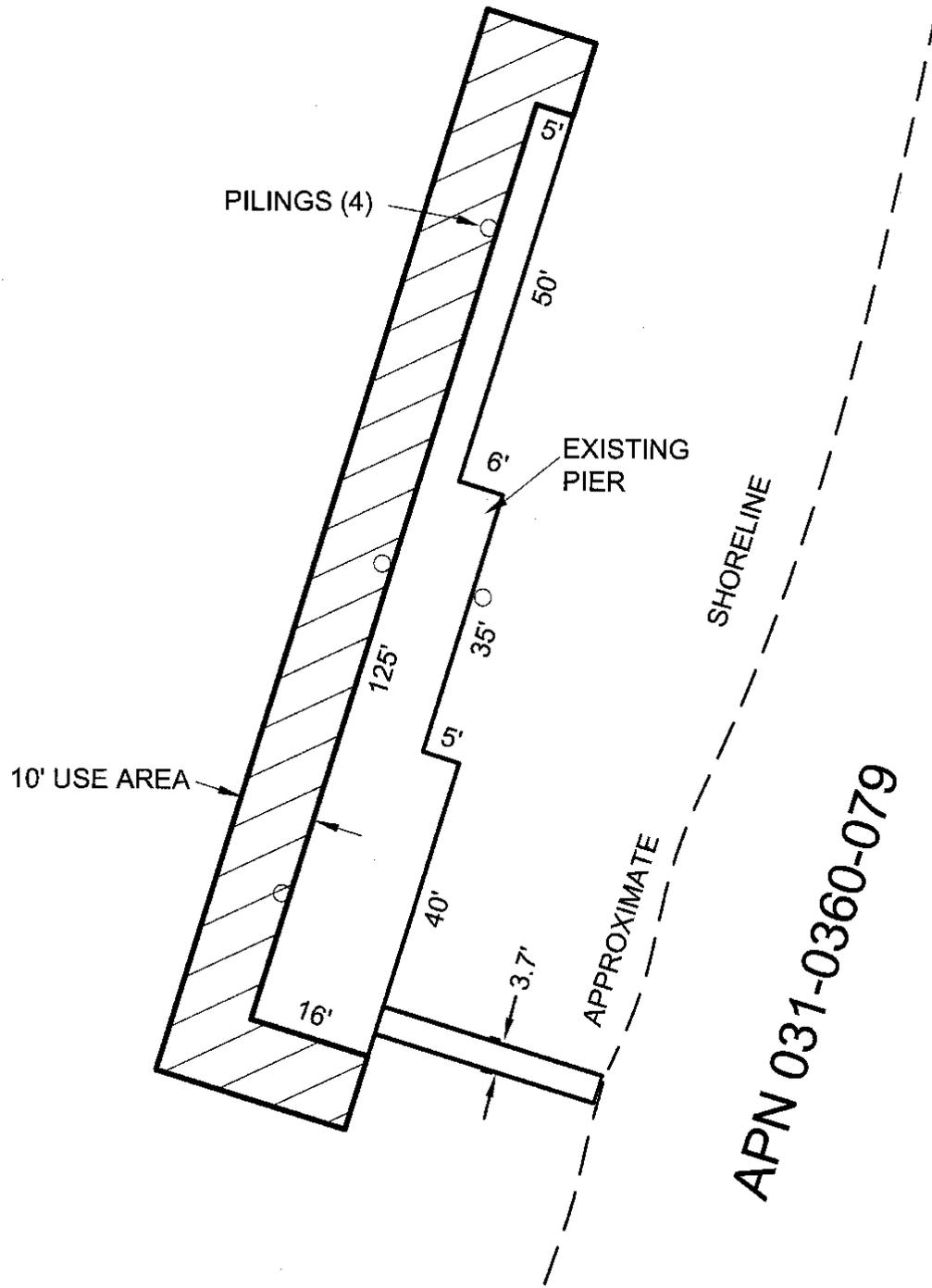
Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared January 9, 2012 by the California State Lands Commission Boundary Unit.



Sacramento River
Flow



APN 031-0360-079

EXHIBIT A

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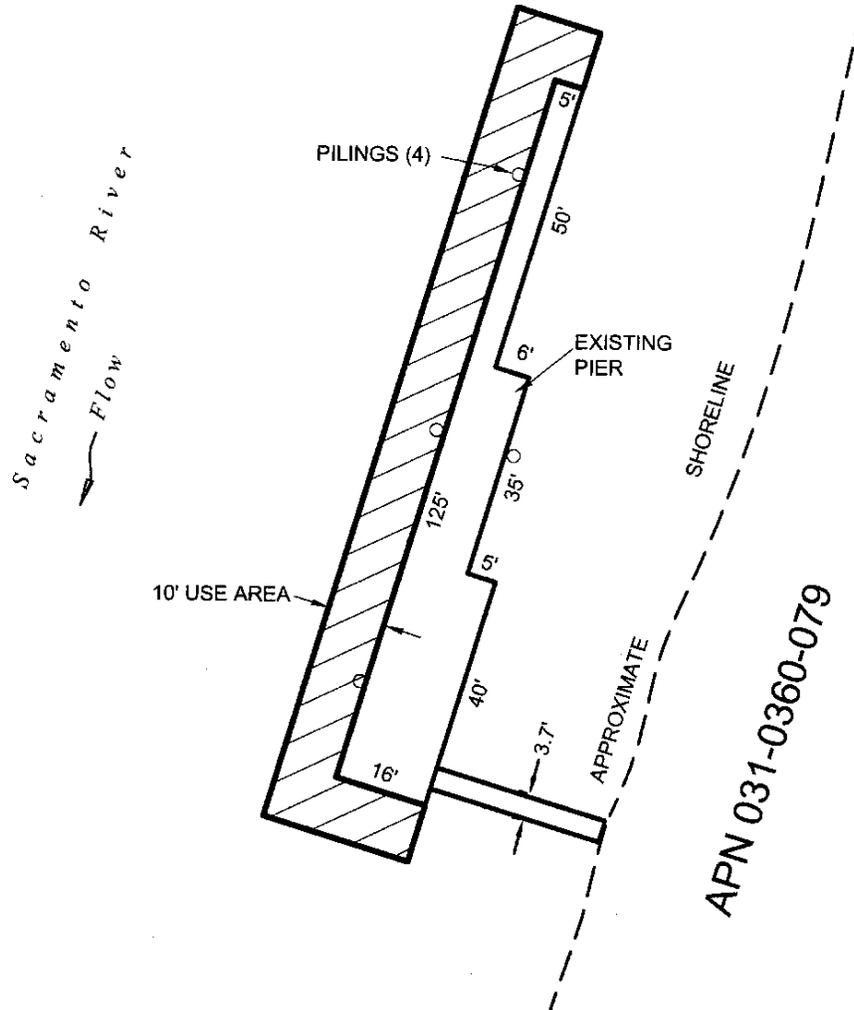
LAND DESCRIPTION PLAT
PRC 8744.1, WITPEN
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



6882 ARABELLA WAY, SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8744.1

WITTPEN

APN 031-0360-079

GENERAL LEASE -

RECREATIONAL USE

SACRAMENTO COUNTY



MJI 01/06/12

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.