

**CALENDAR ITEM
C15**

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S 6

03/29/12
WP 4593.1
R. Boggiano

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Jerry D. Hicks and Kathy Hicks

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 1851 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, one piling, a three-pile dolphin, and a gangway previously authorized by the Commission; and existing bank protection and a horizontal pile brace not previously authorized by the Commission.

LEASE TERM:

10 years, beginning March 29, 2012.

CONSIDERATION:

Uncovered floating boat dock, one piling, a three-pile dolphin, horizontal pile brace, and gangway: \$182 per year with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease.

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

OTHER PERTINENT INFORMATION:

1. Applicants own the upland property adjoining the lease premises.
2. On November 26, 2001, the Commission authorized a 10-year Recreational Pier Lease to Jerry D. Hicks. The lease expired on July 14,

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2011. In 2003, the upland was deeded to Jerry D. Hicks and Kathy Hicks. The Applicants are now applying for a new General Lease – Recreational and Protective Structure 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 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.

The Applicants do not qualify for an exception and the lease is subject to rent because the lease application was received after March 31, 2011.

4. The bank protection and horizontal pile brace have existed for many years but were not specifically authorized by the Commission previously. The horizontal pile brace runs from the single piling to the bank and acts as a brace to support the piling. Staff recommends approval of these improvements within the lease premises.
5. The bank protection will mutually benefit both the public and the Applicant. The bank of the Sacramento River will have the additional protection from wave action provided at little cost to the public.
6. 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.

CALENDAR ITEM NO. C15 (CONT'D)

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:

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:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Jerry D. Hicks and Kathy Hicks, beginning March 29, 2012, for a term of 10 years, for the continued use and maintenance of an uncovered floating boat dock, one piling, a three-pile dolphin, and a gangway previously authorized by the Commission, and the use and maintenance of an existing horizontal pile brace and bank protection not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the uncovered floating boat dock, gangway, one piling, and three-pile dolphin, and horizontal pile brace: \$182 per year, with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease; consideration for the 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; and liability insurance in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 4593.1

LAND DESCRIPTION

A parcel of tide and submerged land situate on the left bank of the Sacramento River, lying adjacent to Lot 1 of fractional Section 27, Township 9 North, Range 4 East, MDM, County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, one piling, three-pole dolphin and horizontal pile brace adjacent to that parcel as described in that Individual Grant Deed recorded January 19, 1988 in Book 880119 at Page 1295, of Official Records of said County.

TOGETHER WITH a ten foot use area.

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said lot.

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 December 21, 2011 by the California State Lands Commission Boundary Unit.



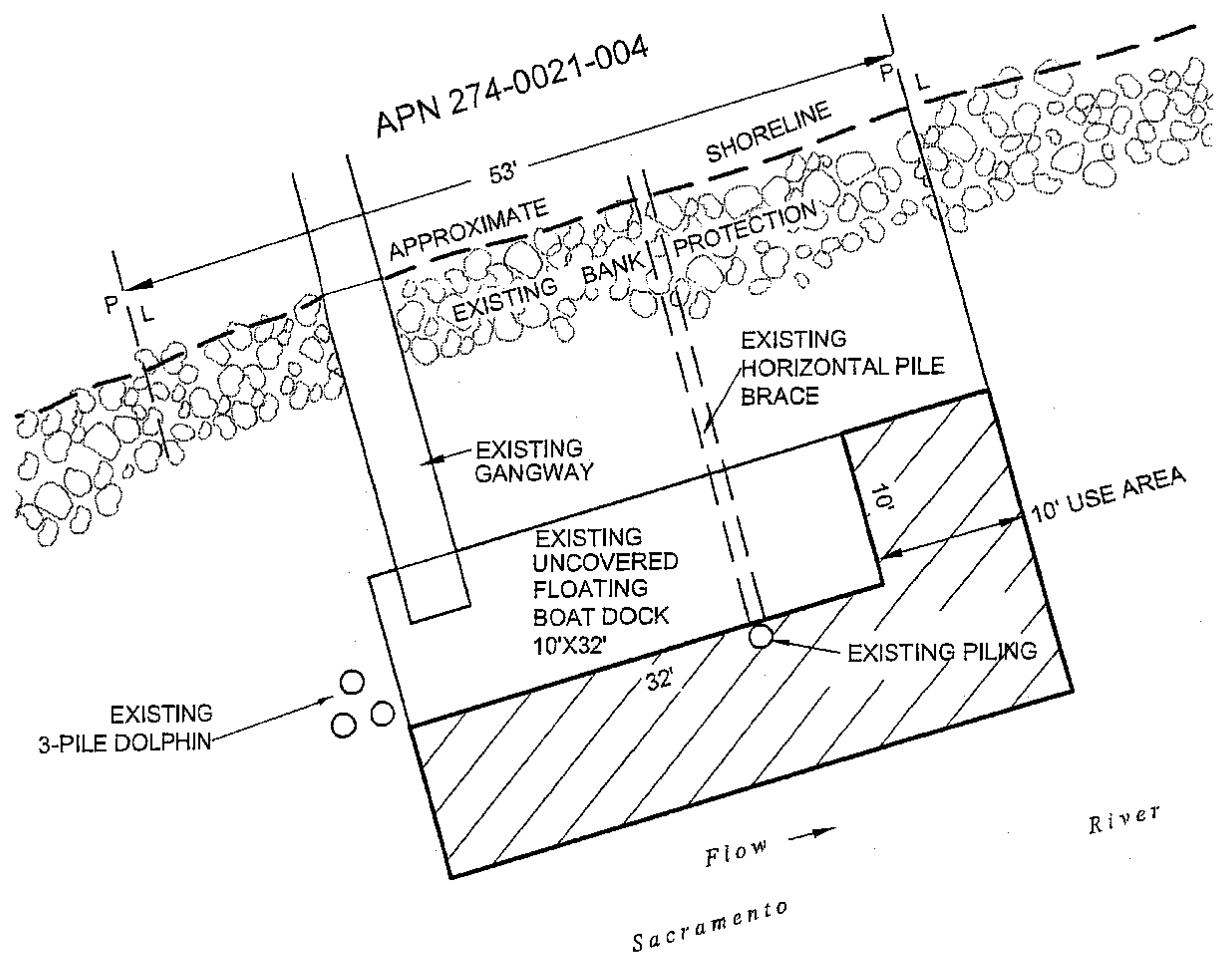


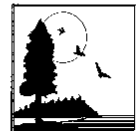
EXHIBIT A

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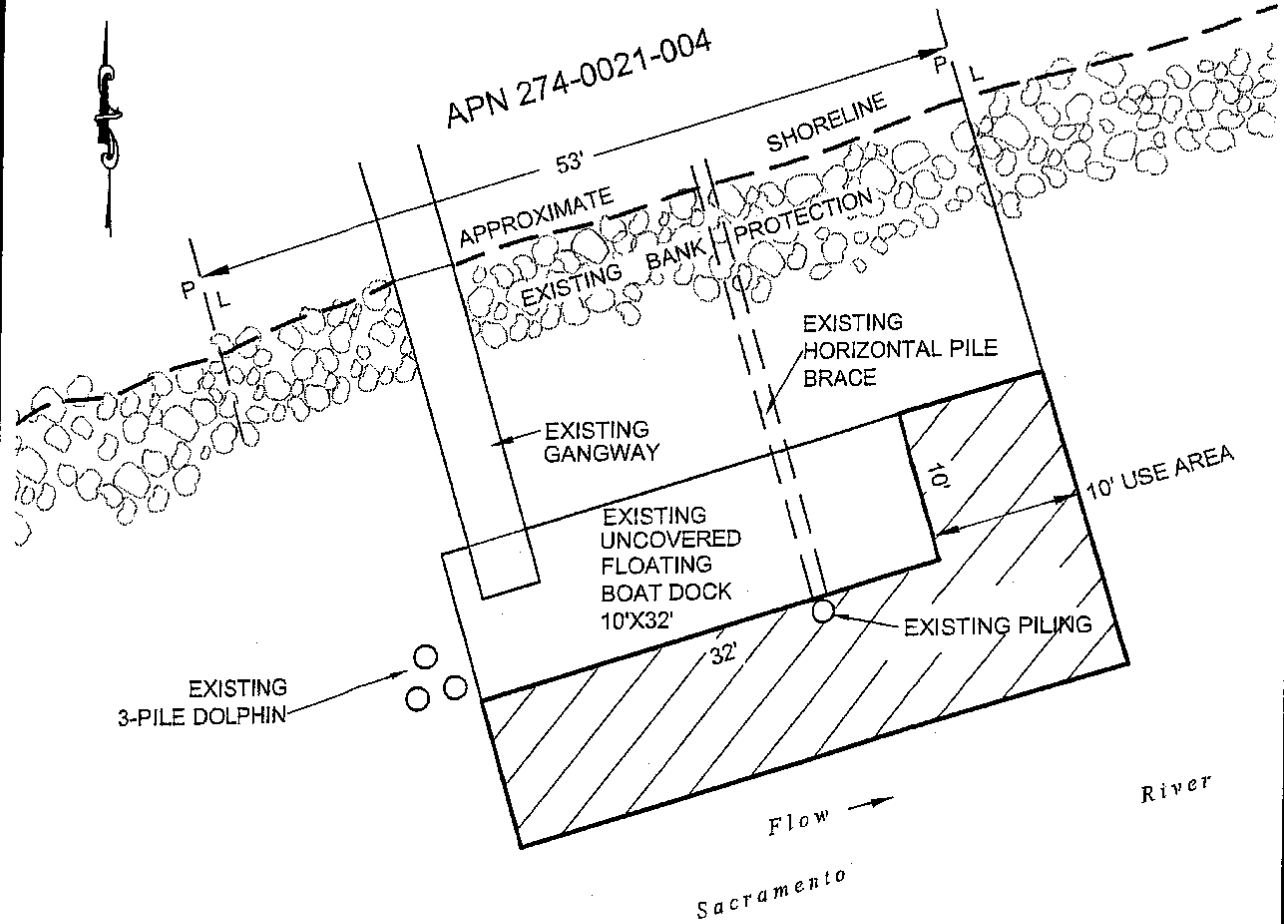
LAND DESCRIPTION PLAT
 PRC 4593.1, HICKS
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



1851 GARDEN HWY., SACRAMENTO RIVER

NO SCALE

LOCATION

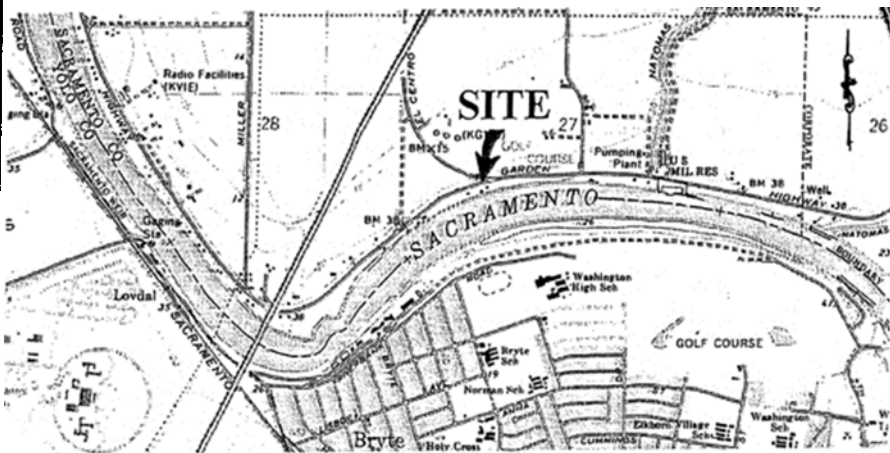


Exhibit B

PRC 4593.1
 HICKS
 APN 274-0021-004
 GENERAL LEASE-
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SACRAMENTO 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.

MJI 12/21/11