

**CALENDAR ITEM
C67**

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03/29/12
WP 4669.1
N. Lavoie

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GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

William S. Chapman, as Trustee of the Bypass Trust C/U the Restated William S. Chapman and Diana R. Chapman Family Trust Dated March 21, 1995, and as Trustee of the Survivor's Trust C/U the Restated William S. Chapman and Diana R. Chapman Family Trust Dated March 21, 1995

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Calaveras River, adjacent to 4357 Yacht Harbor Drive, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Use and maintenance of a T-shaped uncovered floating boat dock, ramp, walkway, two pilings, electrical conduit, water conduit, and bulkhead.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

T-shaped uncovered floating boat dock, ramp, walkway, two pilings, electrical conduit, and water conduit: \$245 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

Bulkhead: 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. Applicant owns the upland adjoining the lease premises.

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2. On April 9, 2002, the Commission authorized a 10-year Recreational Pier Lease to William S. Chapman. That lease will expire on May 23, 2012. Ownership of the upland property has been transferred to William S. Chapman, as Trustee of the Bypass Trust C/U the Restated William S. Chapman and Diana R. Chapman Family Trust Dated March 21, 1995, and as Trustee of the Survivor's Trust C/U the Restated William S. Chapman and Diana R. Chapman Family Trust Dated March 21, 1995. The Applicant is 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 Applicant does not qualify for an exception to the recently enacted changes to Section 6503.5 because the application was submitted after March 31, 2011.

4. The bulkhead will mutually benefit both the public and the Applicant. The bank of the Calaveras River will have additional protection from wave action provided at little cost to the public.

5. 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).

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

6. 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

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 10-year General Lease – Recreational and Protective Structure Use to William S. Chapman, as Trustee of the Bypass Trust C/U the Restated William S. Chapman and Diana R. Chapman Family Trust Dated March 21, 1995, and as Trustee of the Survivor’s Trust C/U the Restated William S. Chapman and Diana R. Chapman Family Trust Dated March 21, 1995, beginning May 24, 2012, for the use and maintenance of a T-shaped uncovered floating boat dock, ramp, walkway, two pilings, bulkhead, electrical conduit, and water conduit 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 T-shaped uncovered floating boat dock, ramp, walkway, two pilings, electrical conduit, and water conduit: \$245 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; consideration for the bulkhead: the public use and benefit with

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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.

EXHIBIT A

PRC 4669.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Calaveras River, formerly the channel of the San Joaquin River, lying adjacent to "LOT 31 of RIVIERA CLIFFS", according to the Official Map or Plat thereof, filed for record June 27, 1952, in Book of Maps and Plats, Vol. 13, page 124, San Joaquin County Records, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, ramp, gangway, electrical and water conduits, walkway and bulkhead lying adjacent to the left bank of said river and being adjacent to and northerly of "PARCEL TWO", as described in "Exhibit A" of Trust Transfer Deed, recorded February 1, 1990 in Document Number 900010007 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 1/23/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



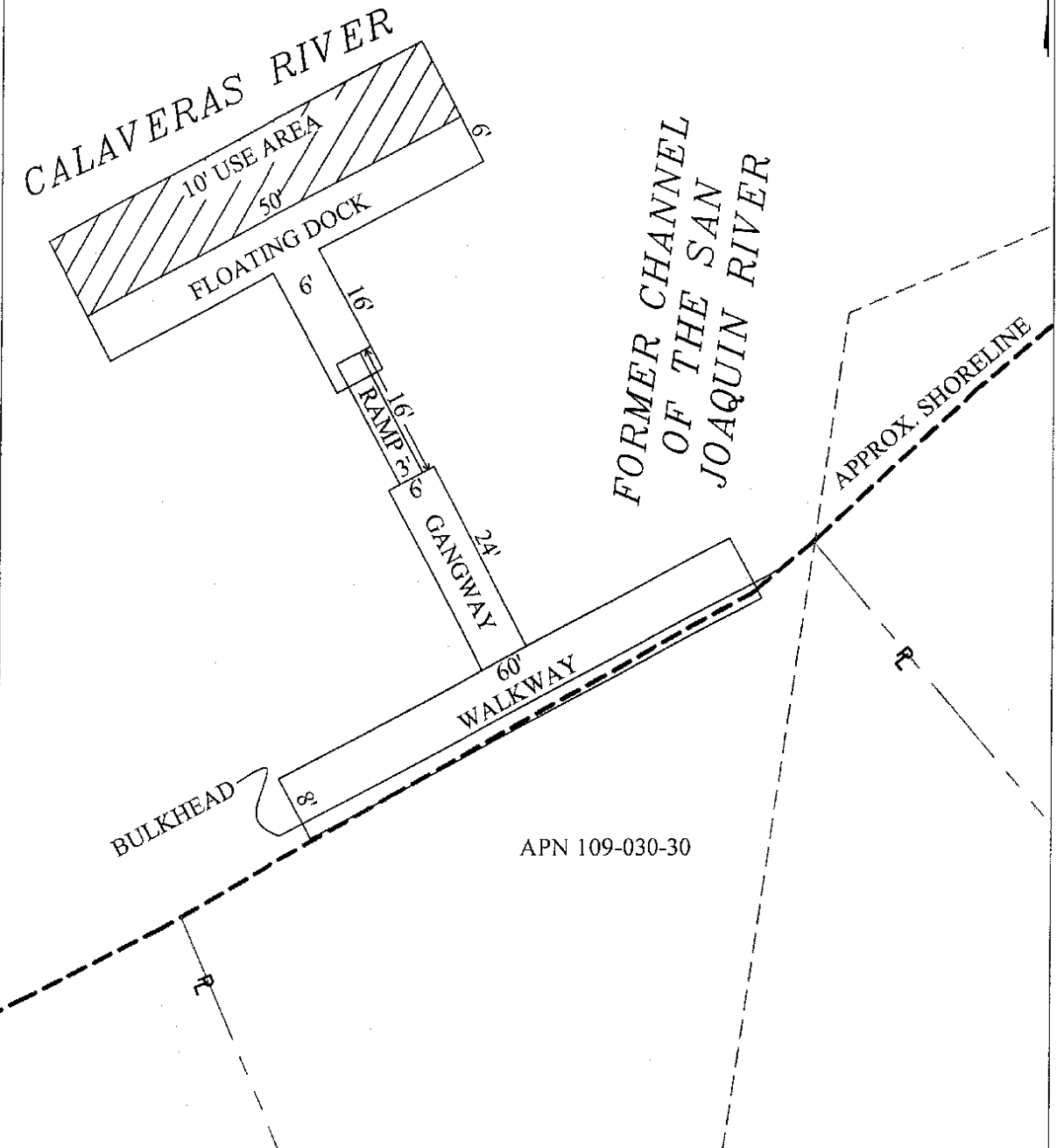
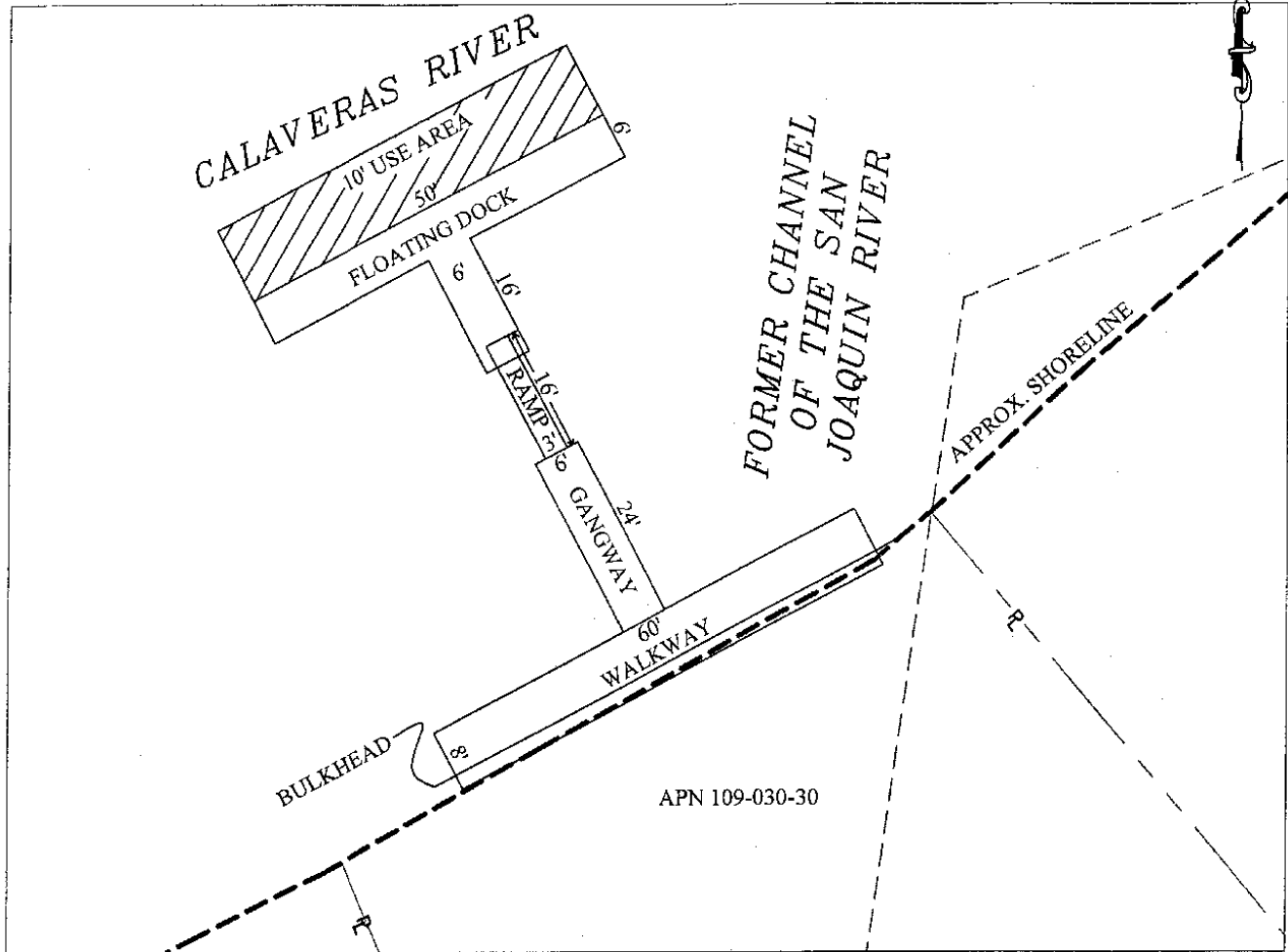


EXHIBIT A



NO SCALE

SITE



4357 Yacht Harbor Dr., Stockton

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

PRC 4669.1
 CHAPMAN FAMILY TRUST
 APN 109-030-30
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SAN JOAQUIN COUNTY



MJF 1/19/12