

**CALENDAR ITEM
C12**

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08/14/12

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PRC 7027.1

R. Boggiano

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Victor Dallari, Jr. and Susan Boyles

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 2261 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, gangway, four pilings, and bank protection previously authorized by the Commission, and use and maintenance of an existing boat lift not previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 1, 2012

CONSIDERATION:

Uncovered Floating Boat Dock, Gangway, Four Pilings, and Boat Lift: \$309 per year, with the State reserving the right to fix a different rent periodically during the lease term, 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 with coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On January 30, 2002, the Commission authorized a General Lease – Recreational and Protective Structure Use to Victor Dallari, Jr. and

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Michael Todd Mitchell. That lease expired on May 31, 2012. In 2004, Michael Todd Mitchell passed away and title transferred to Susan Boyles. The Applicants are now applying for a new General Lease – Recreational and Protective Structure Use.

3. The dimensions authorized in the previous General Lease – Recreational and Protective Structure Use are incorrect. The dimensions authorized a proposed dock expansion that was never constructed. The dimensions of the dock have not changed since construction in 1981.
4. In 2005, the Applicants installed a 28-foot by 13-foot boat lift that was not authorized by the Commission. In 2012, the boat lift was temporarily relocated after a storm damaged a portion of the dock and unfastened the boat lift from its original location. Staff recommends bringing the placement of the Applicant's existing boat lift under lease. The Applicants will be required within one year of execution of the lease to repair the damaged dock and return the boat lift to its original location, as depicted in Exhibit B.
5. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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 application was received after March 31, 2011.

6. The bank protection will mutually benefit both the public and the Applicants. The bank of the Sacramento River will have additional protection from wave action provided at little cost to the public.

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7. 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.

8. 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 Victor Dallari, Jr. and Susan Boyles, beginning June 1, 2012, for a term of 10 years, for an existing uncovered floating boat dock, gangway, four pilings, and bank protection previously authorized by the Commission, and use and maintenance of an existing boat lift not previously authorized by the Commission as described in Exhibit A and

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shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the existing uncovered floating boat dock, gangway, four pilings, and boat lift: annual rent in the amount of \$309, with the State reserving the right to fix a different rent periodically during the lease term, 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 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 7027.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 828 patented April 5, 1869, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, boat lift, gangway and four pilings lying adjacent to the left bank of said river and being adjacent to that parcel described in Grant Deed, recorded October 27, 2005 in Book 20051027 at Page 2153 in Official Records of said County.

TOGETHER WITH a 10' use area.

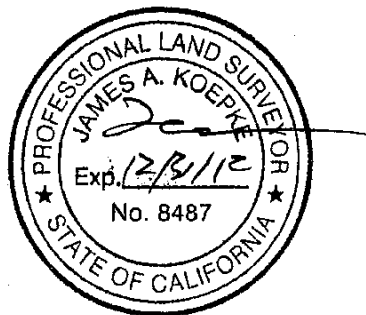
ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said parcel.

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 05/29/12 by the California State Lands Commission Boundary Unit



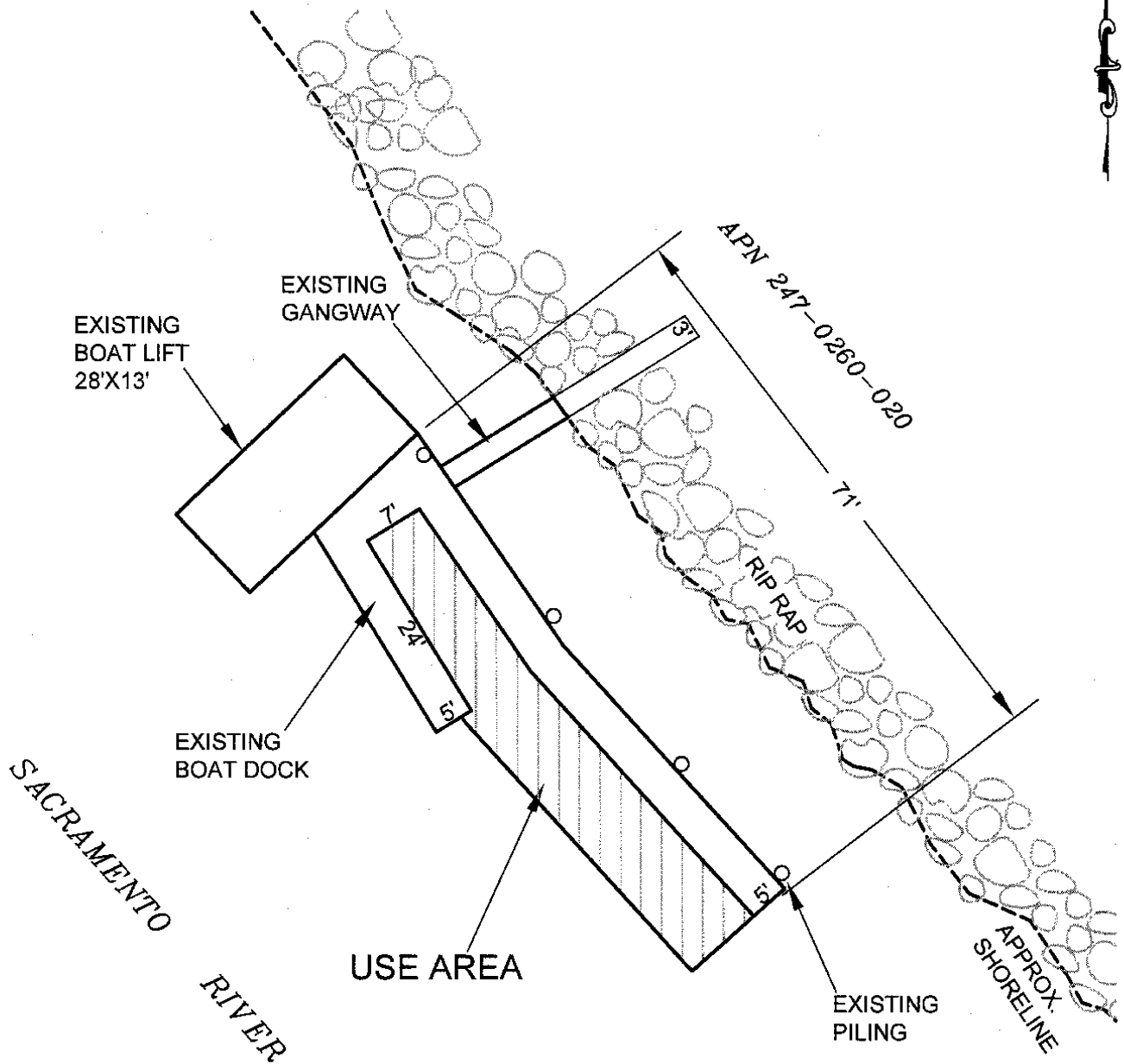


EXHIBIT A

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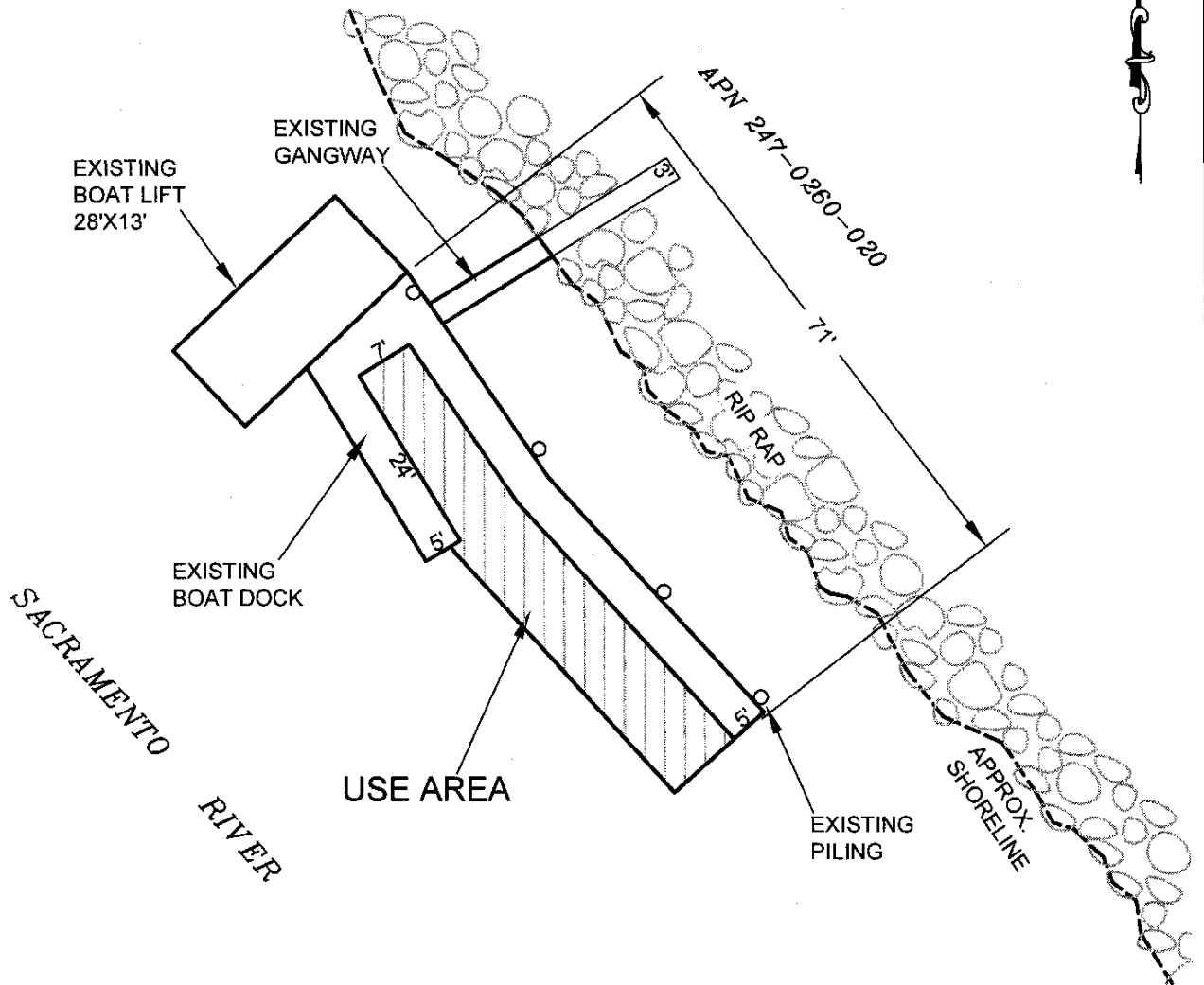
LAND DESCRIPTION PLAT
 PRC 7027.1, DALARI/BOYLES
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

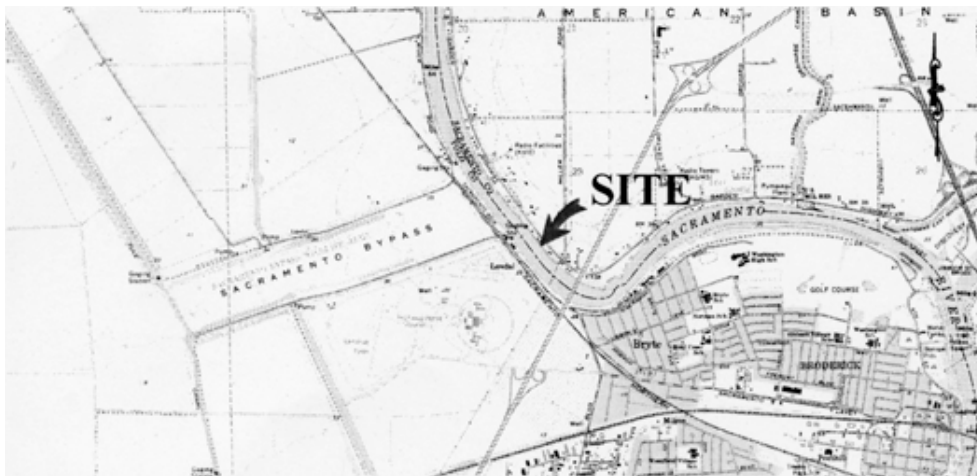
SITE



2261 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7027.1
 DALARI & BOYLES
 APN 274-0260-020
 GENERAL LEASE-
 RECREATIONAL & PROTECTIVE
 STRUCTURES USE
 SACRAMENTO COUNTY



TS 05/29/12

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.