

**CALENDAR ITEM
C14**

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08/14/12
PRC 8361.1
R. Boggiano

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Wesley Caswell and Georgia Anderson

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Napa River, adjacent to 1300 Milton Road, near the city of Napa, Napa County.

AUTHORIZED USE:

Continued use and maintenance of two uncovered floating boat docks, gangway, six pilings, and two two-pile dolphins previously authorized by the Commission, and existing bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning August 14, 2012.

CONSIDERATION:

Two uncovered floating boat docks, gangway, six pilings, and two two-pile dolphins: \$367 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 in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On November 26, 2001, the Commission authorized a General Lease – Recreational Use to Wesley Caswell and Georgia Anderson. The lease

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expired on September 30, 2011. 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 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.

4. The Applicants’ bank protection has been in the Napa River for many years, but has not been previously authorized by the Commission. Staff recommends bringing the bank protection under lease. The bank protection provides a mutual benefit to both the public and the Applicants. The bank of the Napa River will have additional protection from wave action at no expense 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).

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 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

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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 Wesley Caswell and Georgia Anderson, beginning August 14, 2012, for a term of 10 years, for the continued use and maintenance of two uncovered floating boat docks, gangway, six pilings, and two two-pile dolphins previously authorized by the Commission, and existing 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 two uncovered floating boat docks, gangway, six pilings, and two two-pile dolphins: annual rent in the amount of \$367, 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 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 8361.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Napa River, lying adjacent to Swamp and Overflowed Land Survey 76 patented June 9, 1887, County of Napa, State of California and more particularly described as follows:

All those lands underlying two (2) existing uncovered floating boat docks, ramp, two (2) two-pile dolphins and six (6) pilings lying adjacent to the right bank of said river and being adjacent to and easterly of that parcel of land as described in "Exhibit A" of that Corporation Grant Deed, recorded September 16, 2003 in Document Number 2003-0050309 in Official Records of said County.

TOGETHER WITH a 10 foot use area.

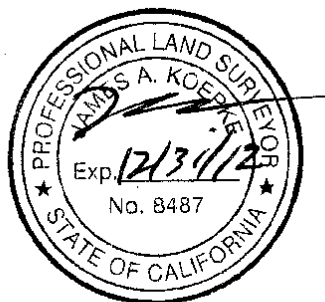
ALSO TOGETHER WITH all those lands underlying existing bank protection lying adjacent to said deed.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 6/28/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



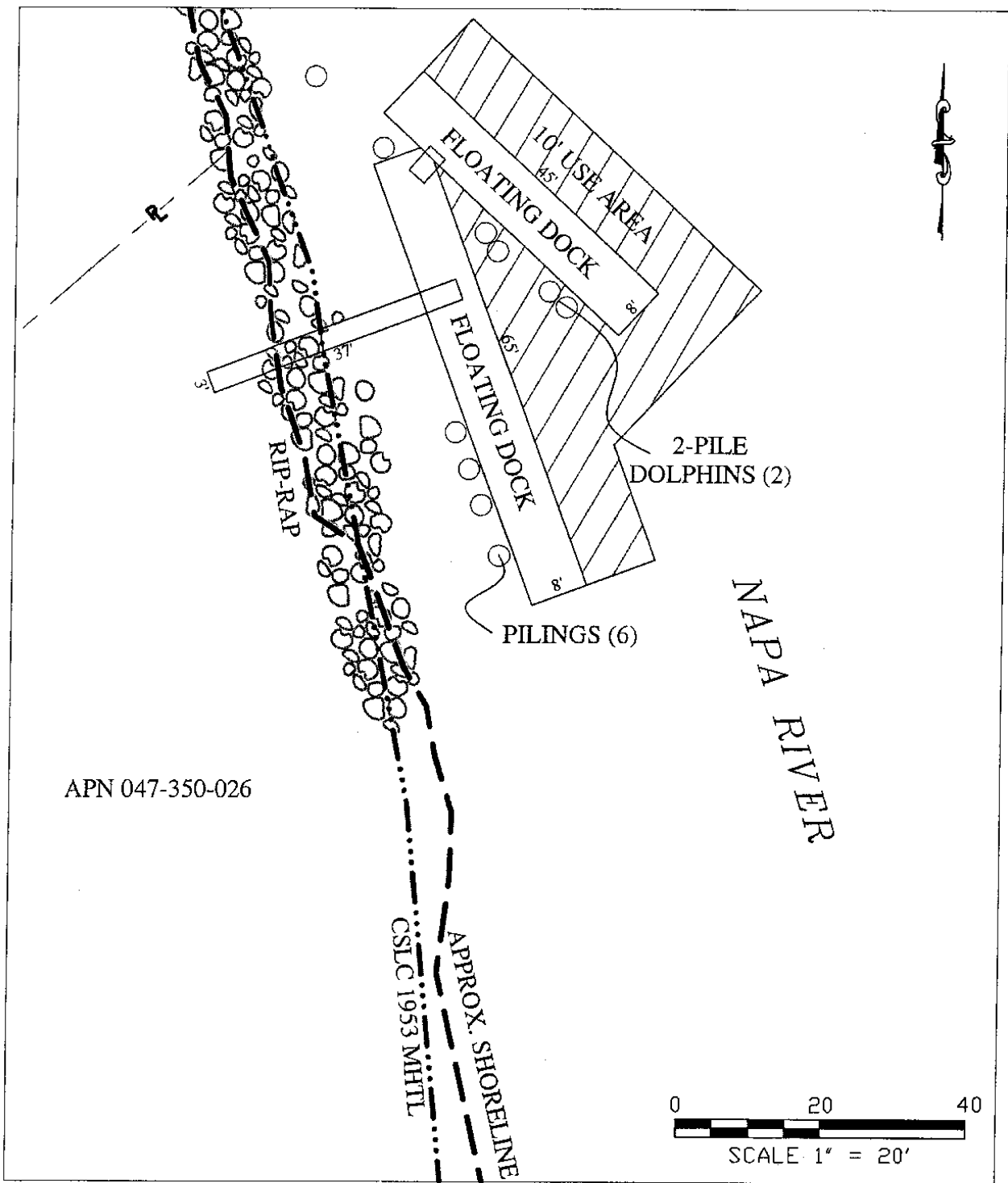


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 8361.1, CASWELL & ANDERSON
 NAPA COUNTY

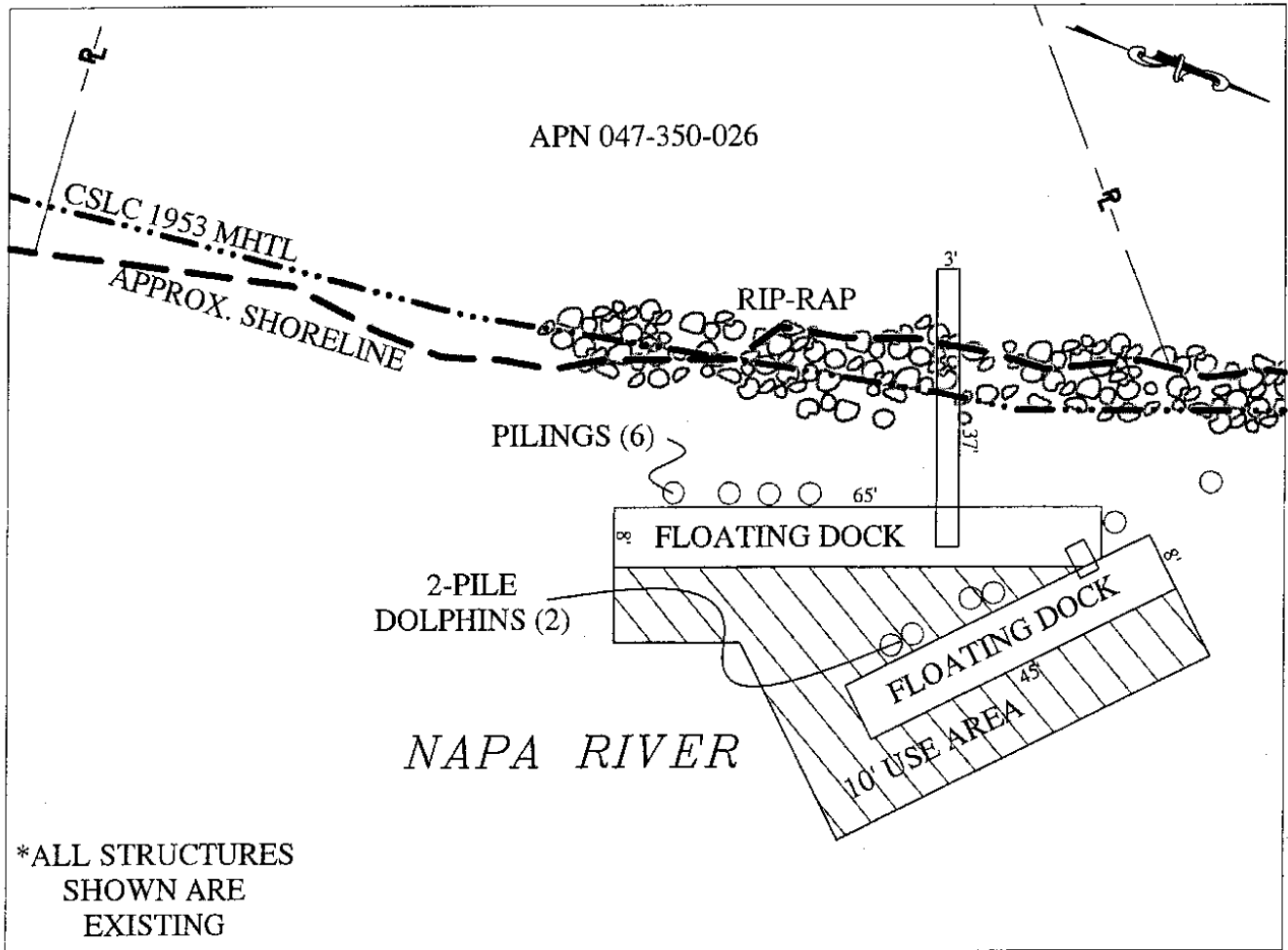
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

APN 047-350-026



1300 Milton Road, Napa

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 8361.1
 CASWELL & ANDERSON
 APN 047-350-026
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 NAPA COUNTY



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