

**CALENDAR ITEM
C52**

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08/14/12
PRC 8422.1
N. Lavoie

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Roger Kelly

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Calaveras River, adjacent to 2869 Calariva Drive, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boathouse, ramp, and four steel pilings.

LEASE TERM:

10 years, beginning September 1, 2012.

CONSIDERATION:

\$198 per year, with the State reserving the right to fix a different rent periodically during the lease term, 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 October 1, 2002, the Commission authorized a Recreational Pier Lease to Roger Kelly, effective September 1, 2002. That lease will expire on August 31, 2012. The Applicant is now applying for a new General Lease – Recreational 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

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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 received on May 15, 2012.

- 4. 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.

- 5. 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

CALENDAR ITEM NO. **C52** (CONT'D)

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 General Lease – Recreational Use to Roger Kelly beginning September 1, 2012, for a term of 10 years, for the continued use and maintenance of an existing floating boathouse, ramp, and four steel 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 \$198 per year, 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 8422.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Calaveras River, lying adjacent to Swamp and Overflowed Land Survey 924 patented April 19, 1876, County of San Joaquin, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat house, ramp, and pilings lying adjacent to the left bank of said river and being adjacent to and northeasterly of "PARCEL ONE", as described in "Exhibit A" of that Grant Deed, recorded June 15, 1998 in Document Number 98069019 in Official Records of said County.

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

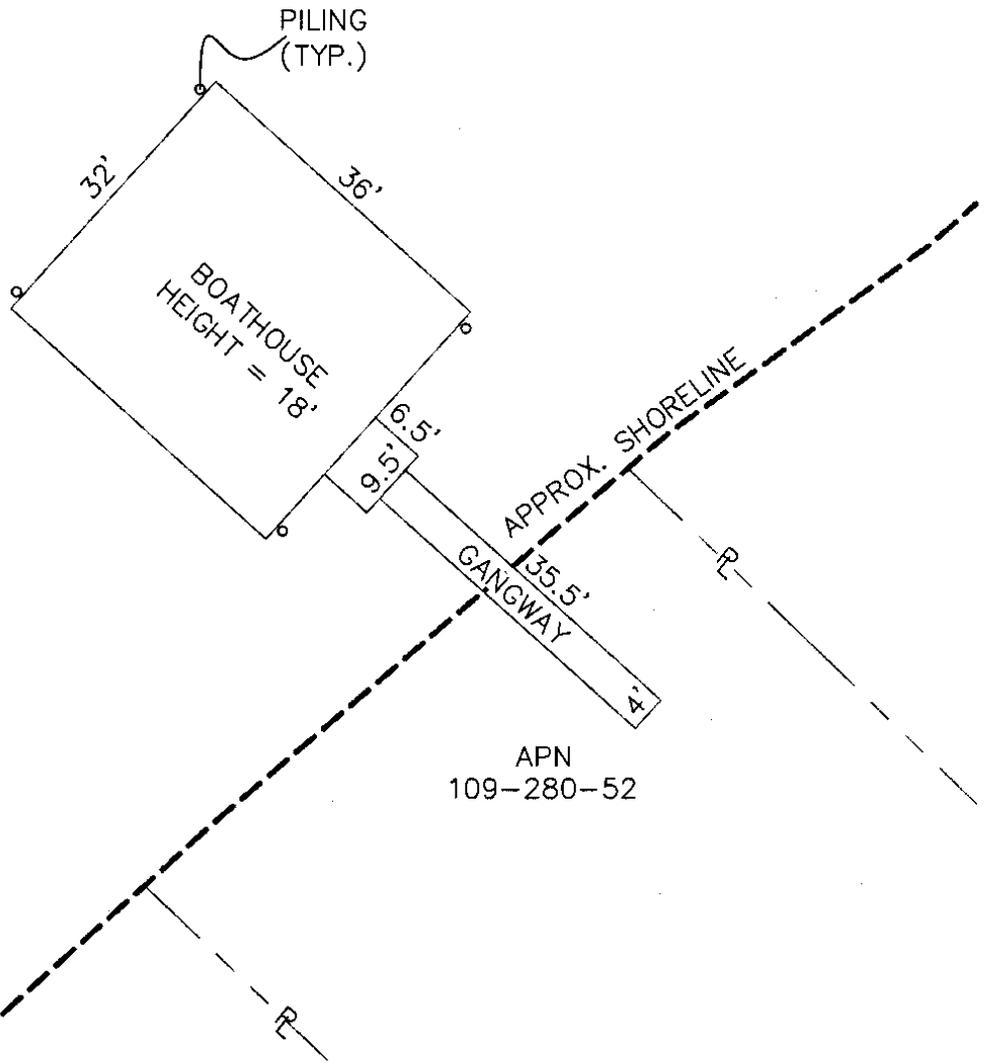
Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 6/27/11 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



CALAVERAS RIVER



*ALL STRUCTURES
SHOWN ARE
EXISTINGS

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 8422.1 - KELLY
SAN JOAQUIN COUNTY

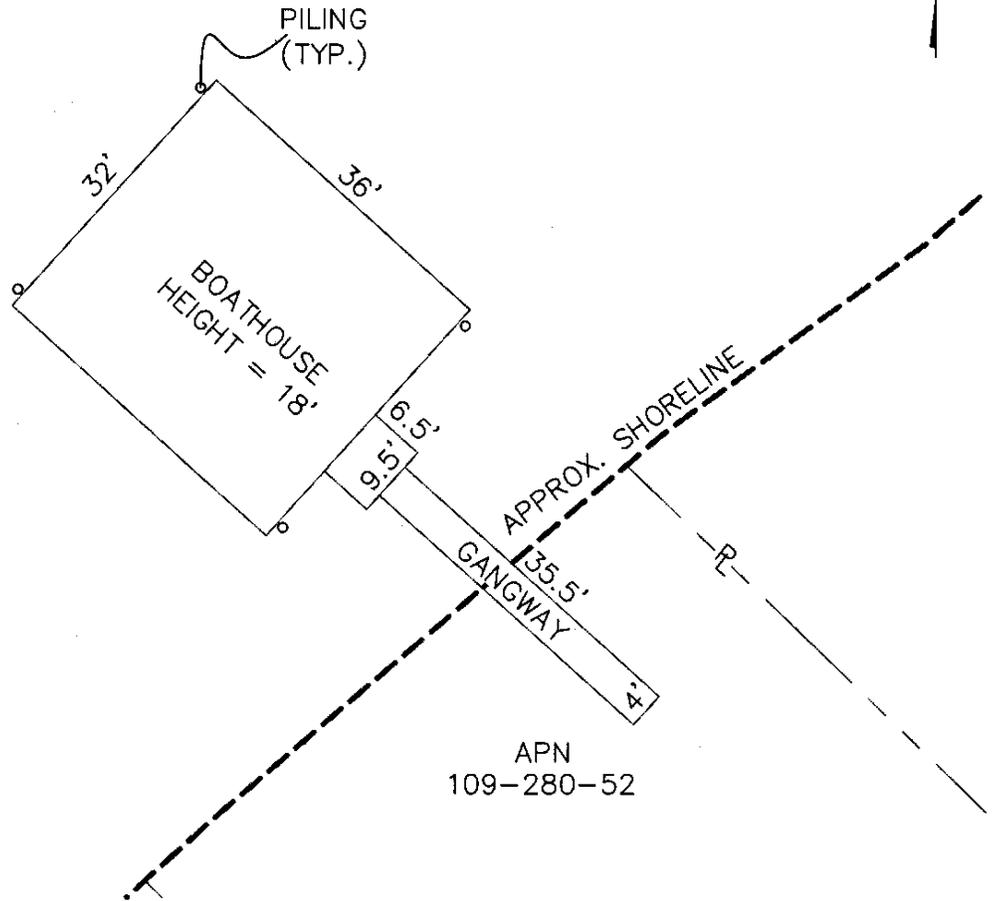
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

CALAVERAS RIVER



*ALL STRUCTURES SHOWN ARE EXISTINGS

APN 109-280-52

2869 Calariva Drive, Stockton

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8422.1

KELLY

APN 109-280-52

GENERAL LEASE -
RECREATIONAL USE
SAN JOAQUIN COUNTY



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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.