

**CALENDAR ITEM
C24**

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10/19/12

W 22867

S 6

V. Caldwell

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Richard E. Ward and Jaqueline P. Ward

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 3131 Garden Highway, near the city of Sacramento, Sacramento County

AUTHORIZED USE:

Use and maintenance of an existing covered single-berth floating boat dock with two attached docks and jet-ski float with lift, gangway, two dolphins, piling, electric and water utility outlet, debris diverter, and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning October 19, 2012.

CONSIDERATION:

Covered Single-Berth Floating Boat Dock with Two Attached Docks and Jet-Ski Float with Lift, Gangway, Two Dolphins, Piling, Electric and Water Utility Outlet, and Debris Diverter: \$477 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 uplands adjoining the lease premises.

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2. The Applicants constructed the existing covered single-berth floating boat dock with two attached docks and jet-ski float with lift, gangway, two dolphins, piling, electric and water utility outlet, and debris diverter without prior Commission authorization. The bank protection has also existed at the site for many years, but without prior authorization by the Commission (the U.S. Army Corps of Engineers and the Reclamation Board issued permits in 1983 to construct the facilities and in 1991 to reconstruct the facilities). The Applicants are now applying for a General Lease – Recreational and Protective Structure Use.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on 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 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 no cost to the public.
5. The staff recommends that the Commission find 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.

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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 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.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers and the Reclamation Board

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 Richard E. Ward and Jaqueline P. Ward beginning October 19, 2012, for a term of 10 years, for the use and maintenance of an existing covered single-berth floating boat dock with two attached docks and jet-ski float with lift, gangway, two dolphins, piling, electric and water utility outlet, debris diverter, 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 covered single-berth floating boat dock with two attached docks and jet-ski float with lift, gangway, two dolphins, piling, electric and water utility outlet, and debris diverter: \$477 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 bank protection: the public use and benefit with the

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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

W 22867

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 284, Certificate of Purchase March 12, 1860, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing covered floating boat dock, jet ski float lift, one piling, two dolphins, gangway and electric and water utility outlets lying adjacent to the left bank of said river and being adjacent to that parcel described in Grant Deed, recorded March 31, 2003 in Book 20030331 at Page 5539 Official Records of said County.

TOGETHER WITH a 10' impact area.

ALSO TOGETHER WITH that land lying immediately beneath the Bank Protection adjacent to that parcel described in said Grant Deed.

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 08/20/12 by the California State Lands Commission Boundary Unit



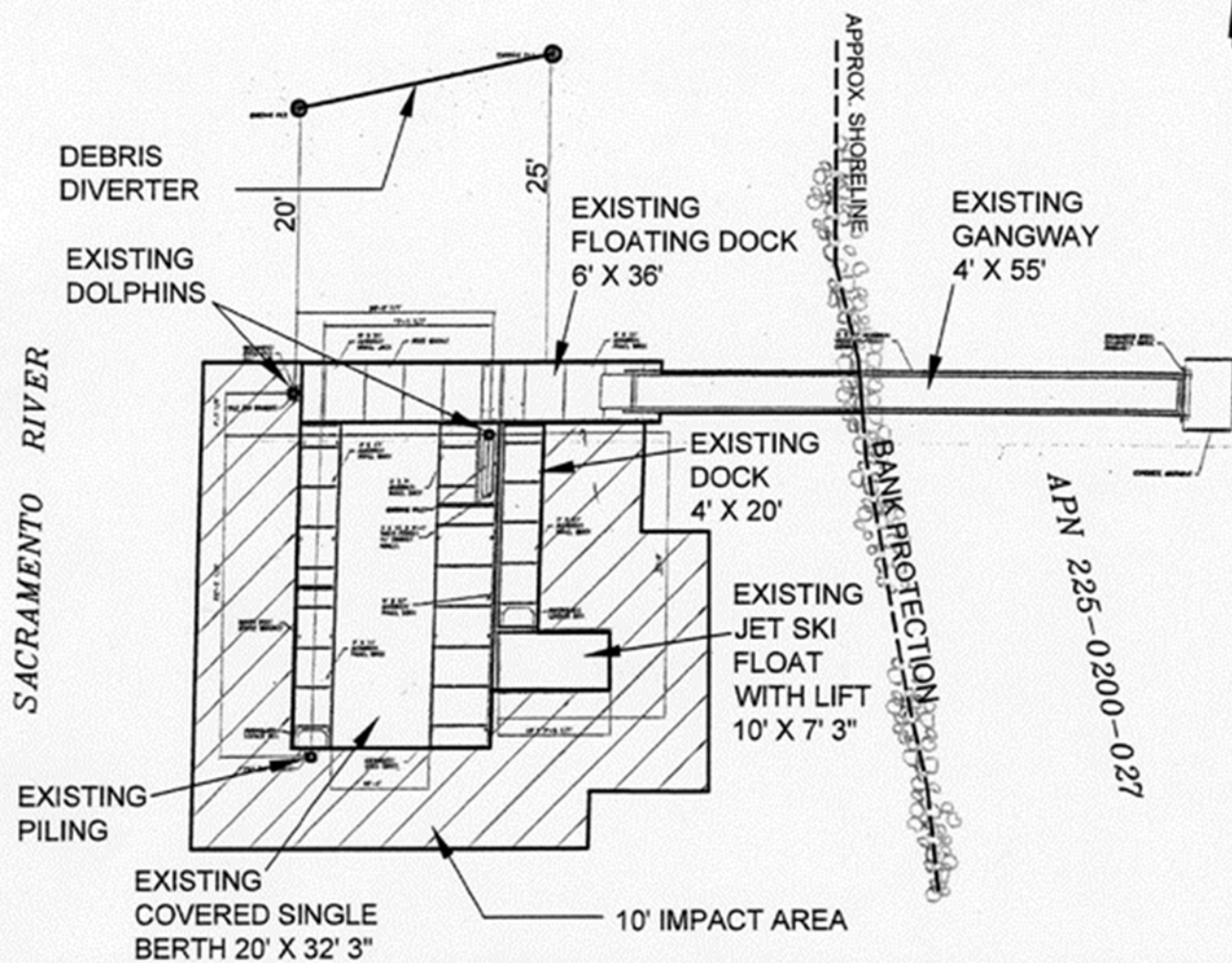


EXHIBIT A

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LAND DESCRIPTION PLAT
W 22867, WARD
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



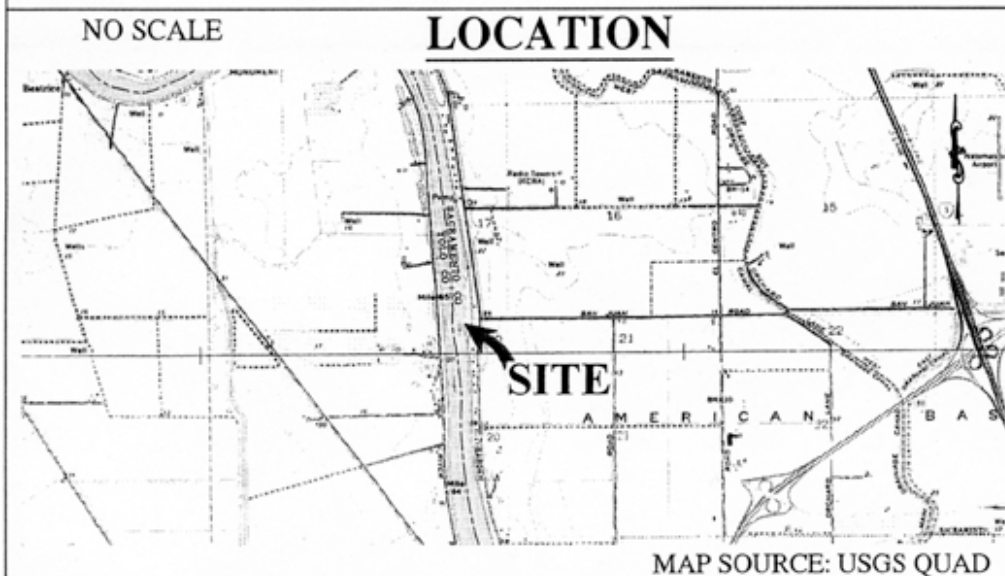
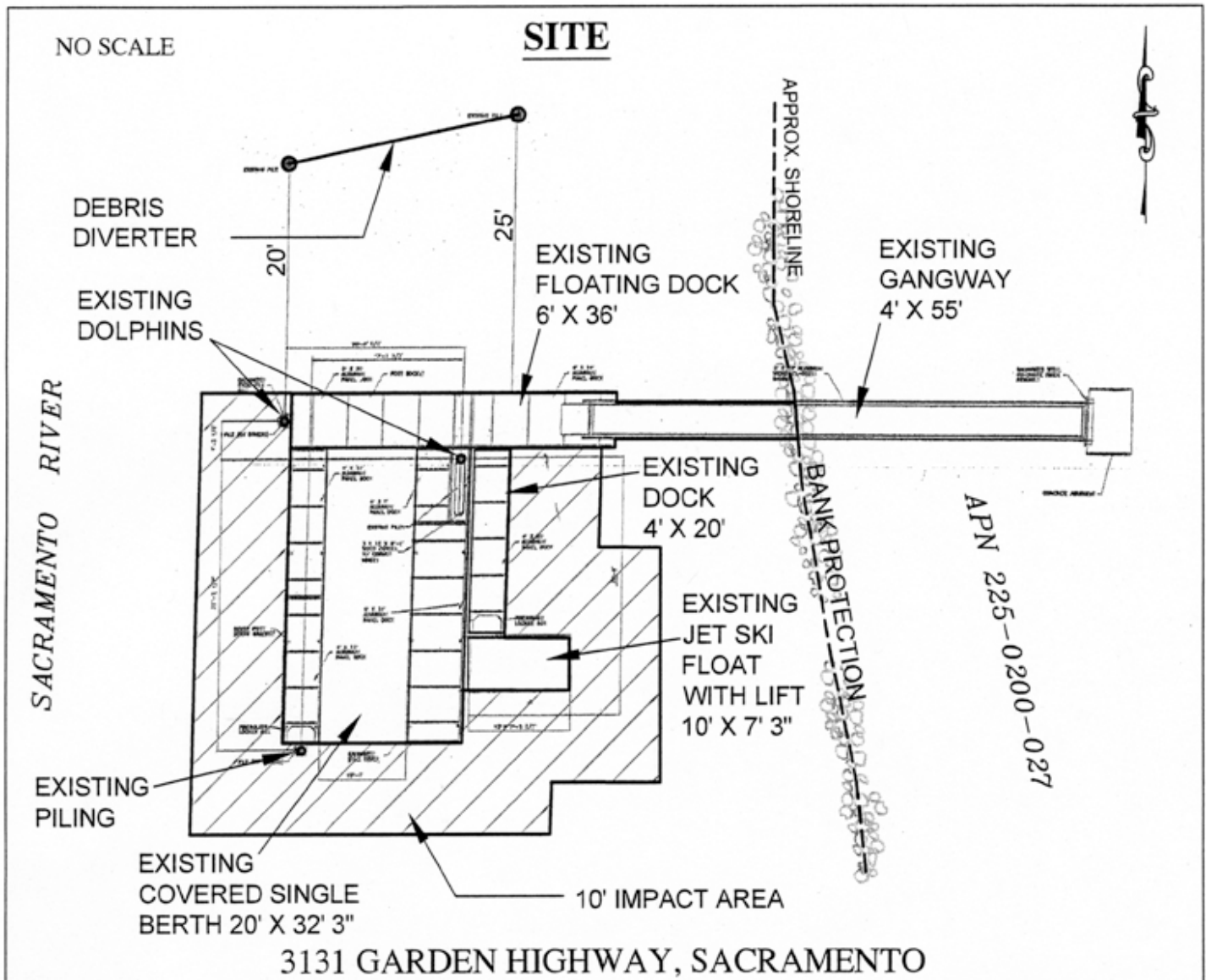


Exhibit B
W 22867
WARD
APN 225-0200-027
GENERAL LEASE-
RECREATIONAL &
PROTECTIVE STRUCTURE USE
SACRAMENTO COUNTY



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.