

CALENDAR ITEM  
**C28**

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S 6

12/05/12  
PRC 5901.1  
N. Lavoie

**GENERAL LEASE – RECREATIONAL AND  
PROTECTIVE STRUCTURE USE**

**APPLICANTS:**

James C. Ross and Jean L. Scott

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in the Sacramento River, adjacent to 2331 Garden Highway, near the city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing single-berth uncovered floating boat dock, ramp, four pilings, one two-piling dolphin, one three-piling dolphin, electrical conduit, and bank protection.

**LEASE TERM:**

10 years, beginning December 5, 2012.

**CONSIDERATION:**

**Single-berth uncovered floating boat dock, ramp, four pilings, one two-piling dolphin, one three-piling dolphin, and electrical conduit:** \$361 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.

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**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. On August 17, 2004, the Commission authorized a General Lease – Protective Structure and Recreational Use to Wendy Hoyt and Tom Kurowski. That lease expired on April 30, 2012. On January 17, 2012, Tom Kurowski transferred title to his portion of the upland to Wendy Hoyt, giving Wendy Hoyt 100 percent ownership. Also, on January 17, 2012, Wendy J. Hoyt (who took title to a portion of the property as Wendy Hoyt) transferred full ownership to Wendy J. Hoyt, Trustee of the Wendy J. Hoyt Trust, dated 12/21/11. On August 13, 2012, the upland was transferred to Jean L. Scott and James C. Ross. 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.

4. Under the prior lease, the authorized improvements included six pilings, two of which are in fact dolphins. For the new lease, staff recommends authorizing the continued use and maintenance of four existing pilings and two dolphins.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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 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 James C. Ross and Jean L. Scott, beginning December 5, 2012, for a term of 10 years, for the continued use and maintenance of an existing single-berth uncovered floating boat dock, ramp, four pilings, one two-piling dolphin, one three-piling dolphin, electrical conduit, and bank protection 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 single-berth uncovered floating boat dock, ramp, four pilings, one two-piling dolphin, one three-piling dolphin, and electrical conduit: \$361 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

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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 5901.1**

**LAND DESCRIPTION**

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

All those lands underlying an existing floating boat dock, ramp, four pilings, one (1) two-pile dolphin, one (1) three-pile dolphin and electrical conduit adjacent to that Lot as described in Exhibit One of that Grant Deed recorded September 29, 1998 as Document 199809291423 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

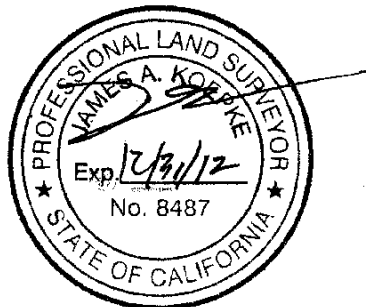
ALSO TOGETHER WITH all those lands underlying existing bank protection lying adjacent to said Lot.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

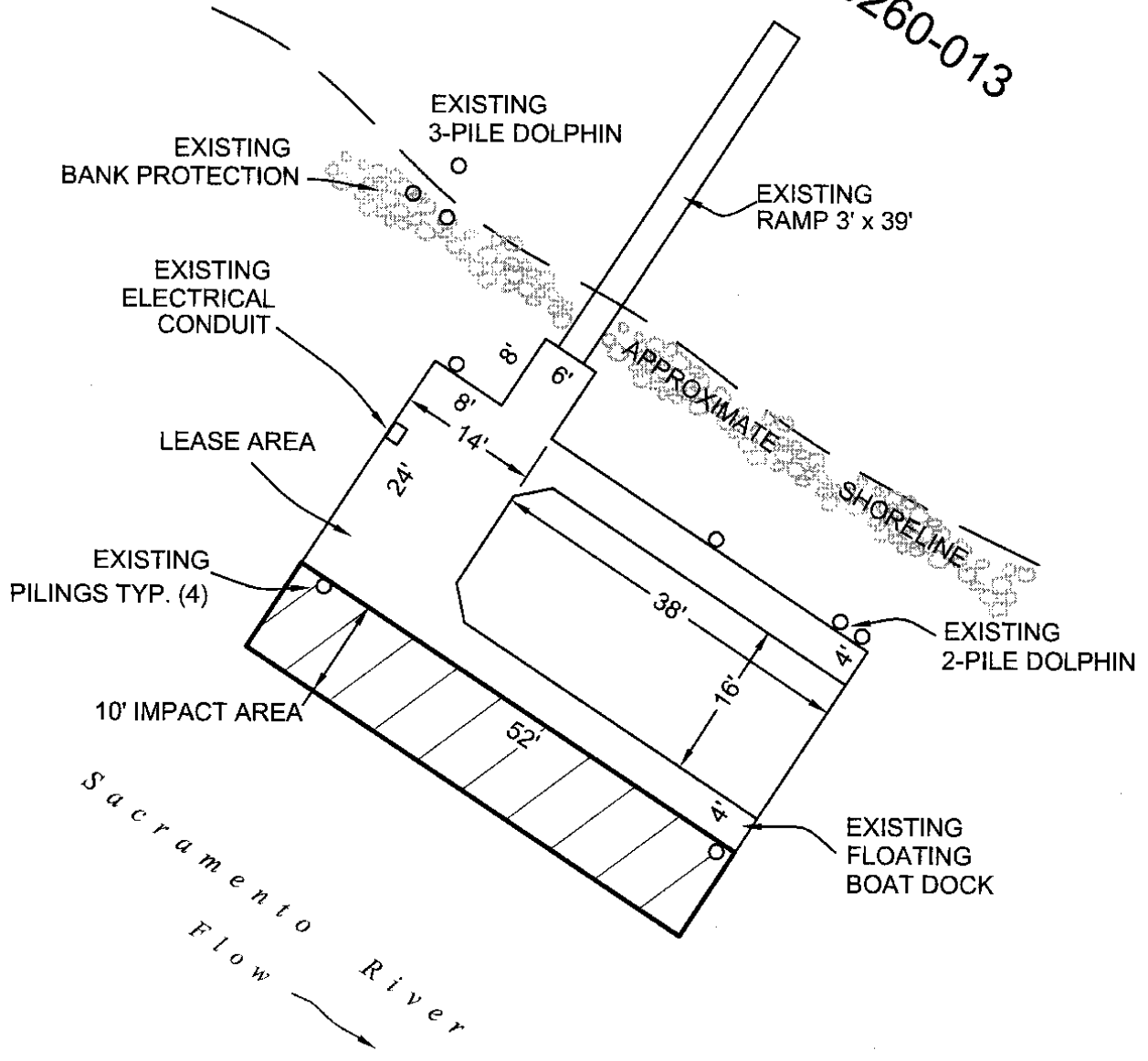
Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

Prepared October 18, 2012 by the California State Lands Commission Boundary Unit.



APN 274-0260-013



# EXHIBIT A

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LAND DESCRIPTION PLAT  
PRC 5901.1, ROSS & SCOTT  
SACRAMENTO COUNTY

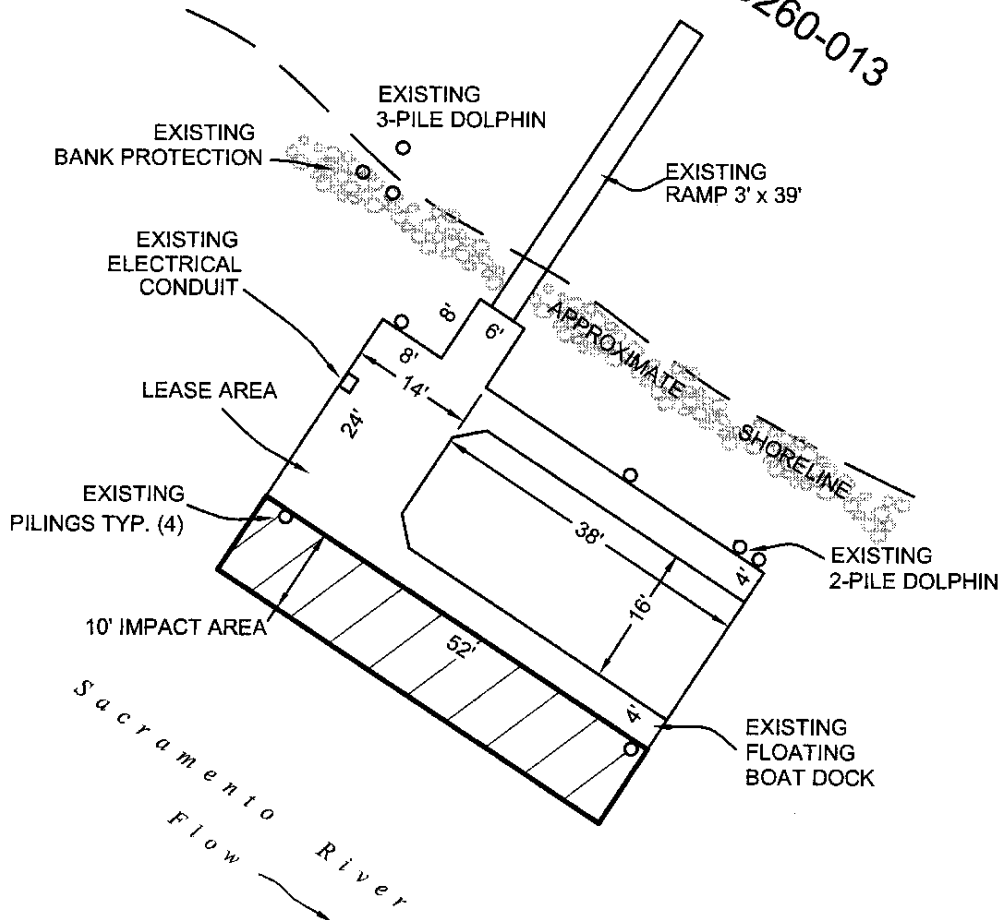
CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE

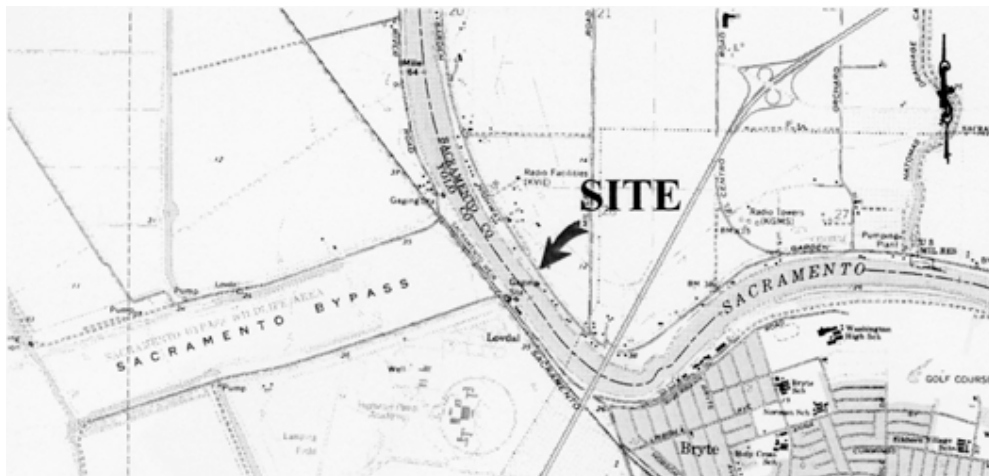
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2331 GARDEN HIGHWAY, NEAR SACRAMENTO

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 5901.1  
 ROSS & SCOTT  
 APN 274-0260-013  
 GENERAL LEASE -  
 RECREATIONAL & PROTECTIVE  
 STRUCTURE USE  
 SACRAMENTO 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.