

**CALENDAR ITEM
C32**

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S 4

02/22/13
PRC 8331.1
C. Hudson

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Kenneth D. Vandeventer and Judith M. Vandeventer, Trustees of the Kenneth and Judith Vandeventer Family Trust, under trust dated April 11, 2006

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, adjacent to 491 W. Brannan Island Road, near Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered single-berth floating boat dock, walkway, gangway, and five pilings previously authorized by the Commission and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 22, 2013.

CONSIDERATION:

Uncovered Single-Berth Floating Boat Dock, Walkway, Gangway, and Five Pilings: \$346 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 September 17, 2001, the Commission authorized a Recreational Pier Lease with Kenneth D. Vandeventer and Judith M. Vandeventer. That

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lease expired on June 30, 2011. On April 14, 2006, the upland parcel was deeded to Kenneth D. Vandeventer and Judith M. Vandeventer, Trustees of the Kenneth and Judith Vandeventer Family Trust, under trust dated April 11, 2006. 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 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 has existed for many years but was not previously authorized by the Commission. Staff is recommending that the Commission authorize the bank protection. The bank protection will mutually benefit both the public and the Applicants. The bank of the San Joaquin River will have additional protection from wave action provided at little cost to the public.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of 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).

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.

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 Kenneth D. Vandeventer and Judith M. Vandeventer, Trustees of the Kenneth and Judith Vandeventer Family Trust, under trust dated April 11, 2006, beginning February 22, 2013, for a term of 10 years, for the continued use and maintenance of an existing uncovered single-berth floating boat dock, walkway, gangway, and five pilings 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 uncovered single-berth floating boat dock, walkway, gangway, and five pilings: \$346 per year, with the State reserving the right to fix a different rent periodically during the lease, 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

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best interest; and liability insurance in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 8331.1

LAND DESCRIPTION

A parcel of tide and submerged land situate within the original bed of the San Joaquin River, lying adjacent to Swamp and Overflow Survey 752, patented June 17, 1873, in the County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock and walkway adjacent to Parcel One as described in Exhibit "A" of that Trust Transfer Deed recorded April 14, 2006 in Book 20060414, Page 1496 in Official Records of said County.

TOGETHER WITH a 10 foot impact area.

ALSO TOGETHER WITH those lands lying immediately beneath any bank protection adjacent to said Parcel.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the right bank of the San Joaquin River.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared January 28, 2013 by the California State Lands Commission Boundary Unit.



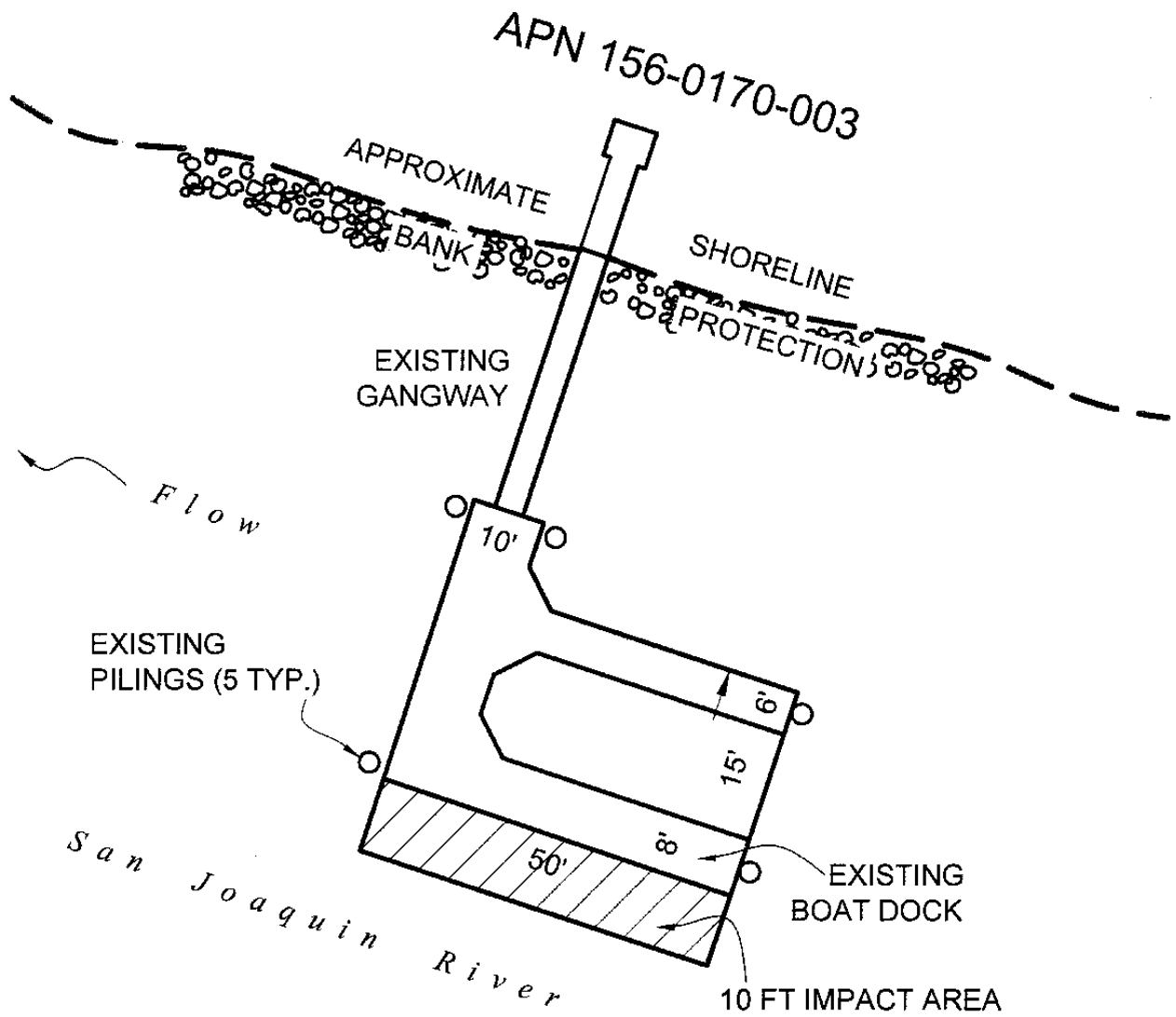


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 8331.1 VANDEVENTER
 SACRAMENTO COUNTY

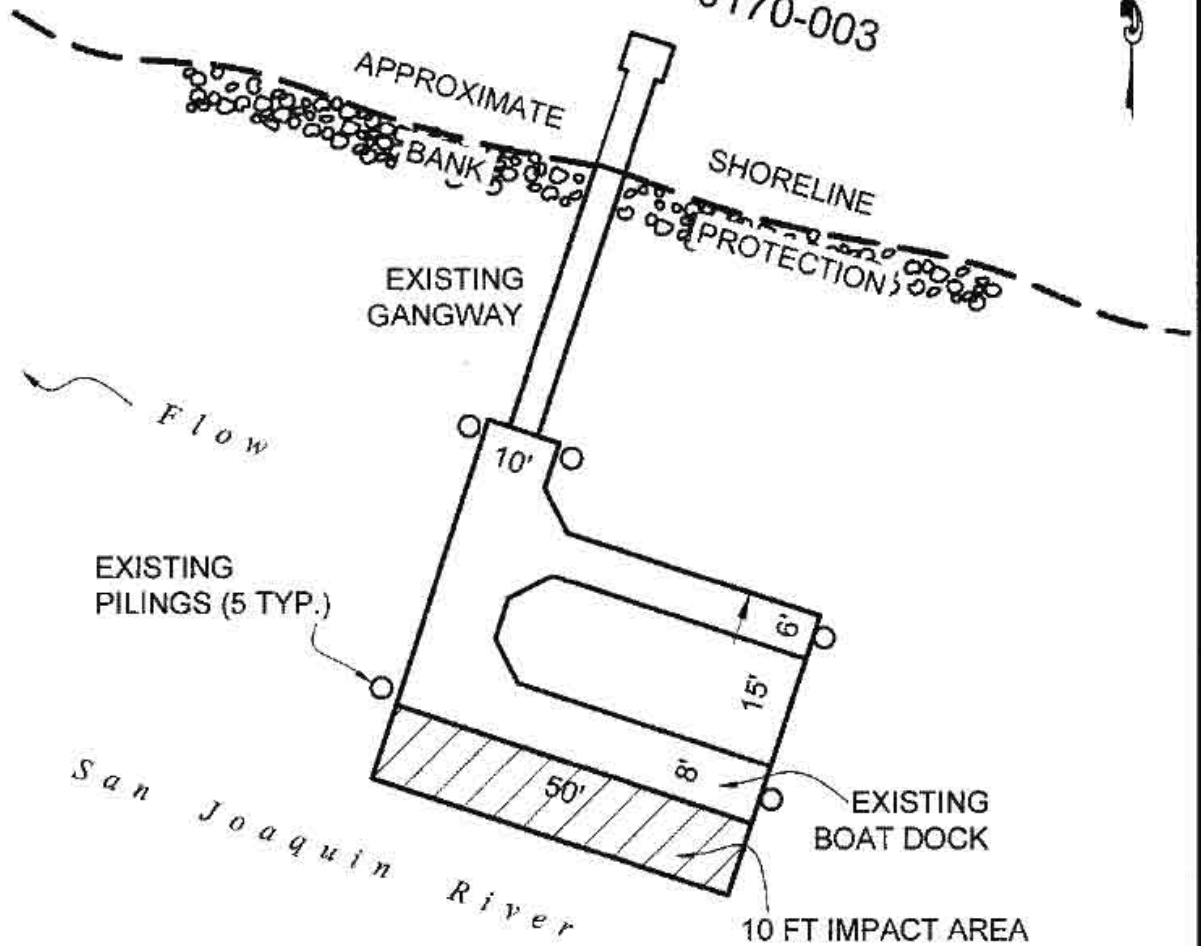
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

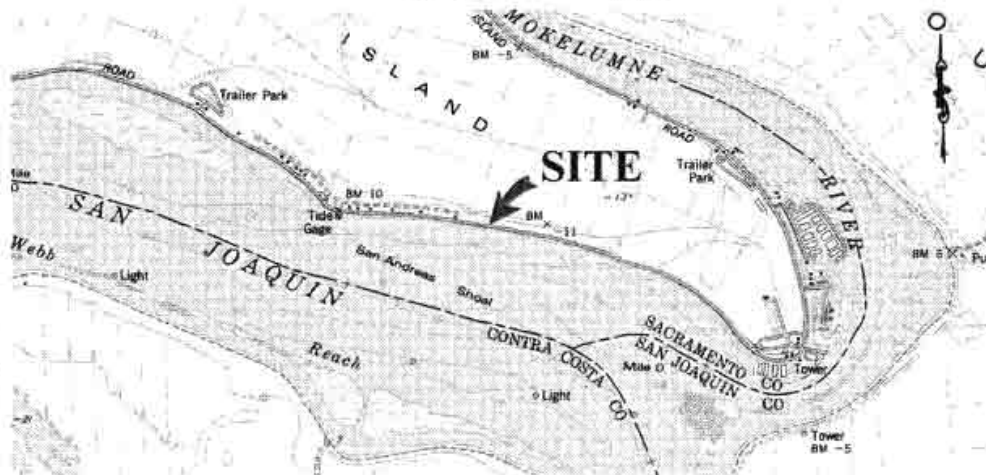
APN 156-0170-003



491 W. BRANNAN ISLAND ROAD, SAN JOAQUIN RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8331.1
 VANDEVENTER
 APN 156-0170-003
 GENERAL LEASE-
 RECREATIONAL &
 PROTECTIVE STRUCTURE
 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.

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