

**CALENDAR ITEM  
C76**

A 33  
S 16

02/22/13  
PRC 8968.1  
G.Kato

**RESCISSION OF COMMISSION AUTHORIZATION  
AND AUTHORIZATION FOR A NEW GENERAL LEASE –  
RECREATIONAL AND PROTECTIVE STRUCTURE USE**

**APPLICANT:**

Randy A. Baker, Trustee or his Successor(s), for the benefit of the TCOB Trust under declaration of trust dated December 29, 1999

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

Sovereign land located in the Colorado River, adjacent to 1218 Beach Drive, city of Needles, San Bernardino County.

**AUTHORIZED USE:**

Construction, use, and maintenance of a boat dock and gangway; and use and maintenance of an existing fire pit and riprap bankline located on State sovereign land.

**LEASE TERM:**

10 years, beginning February 22, 2013.

**CONSIDERATION:**

**Boat Dock, Gangway, and Fire Pit:** Annual rent in the amount of \$225, with the State reserving the right to fix a different rent periodically during the term of the lease, as provided in the lease.

**Riprap Bankline:** Public use and benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State.

**SPECIFIC LEASE PROVISIONS:**

**Insurance:** Combined single-limit liability not less than \$1,000,000.

**Other:** Applicant acknowledges that the Public Access Easement shall remain open to the public and that no structures or improvements shall be erected and no personal property placed so as to obstruct or prevent public access in and along the Easement. Such improvements include, but are not limited to, fences,

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walls, railings, or landscaping. Applicant further acknowledges that he shall not place signs or advocate in any other manner in such a way as to prevent or discourage public use of the Public Access Easement.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the upland adjoining the lease premises.
2. The State of California had its fee ownership of the sovereign land located in the Colorado River at this location confirmed in 1991 as a result of a Boundary Line Agreement and Compromise Settlement entered into between the Commission and Kahala Needles Partners, Ltd., a Nevada Limited Partnership, recorded as AD 134 dated January 1, 1991, and recorded on August 11, 1992, document No. 92-333250, Official Records, San Bernardino County, California. Projects, including new development or maintenance of existing facilities, extending waterward of the Ordinary High Water Mark (OHWM) fixed in the abovementioned Agreement (AD 134) require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicant's upland property is located along the Colorado River adjacent to the fixed OHWM.
3. On May 24, 2011, the Department of the Army, Los Angeles District, Corps of Engineers, issued a response to the Applicant's request for a Letter of Permission to place a floating dock and gangway in the Colorado River. The Corps of Engineers requested that the Applicant establish legal rights to the property by way of a lease agreement with the State.
4. On January 26, 2012, the Commission authorized the issuance of a General Lease – Recreational and Protective Structure Use to the lessee. Immediately following the Commission's actions, staff received contacts from various parties within the Rio Buena Vista (RBV) community opposing the placement of the boat dock on a popular beach within the community. The lease was never executed.
5. The Commission directed staff to hold a public workshop on the public trust needs of the RBV community. This workshop was held on October 11, 2012 in nearby Laughlin, Nevada to discuss the current conditions at the RBV community and to take comments from residents and interested parties. More than 50 people attended the public meeting and provided comment. One of the topics of concern was the placement of boat docks within the community. While there were several residents opposed to the authorization of any boat docks, the majority of the community supports

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the idea that docks are acceptable so long as access to the beaches is protected.

6. The prior authorization allowed for the boat dock to be placed on a portion of the beach the community wanted protected. Staff negotiated with the Applicant to relocate the proposed boat dock so that it will have minimal impact, if any, on the beach. Staff of the U.S. Army Corps of Engineers was also consulted throughout this process. Staff recommends the Commission rescind its prior authorization and authorize the issuance of a lease with the proposed boat dock relocated to minimize impact on the beach.
7. Pursuant to the above-mentioned Boundary Line Agreement and Compromise Settlement, the State of California was granted a perpetual public pedestrian access easement running parallel to the fixed OHWM. The easement is intended to provide public access to and along the bank of the Colorado River. The easement affects lots 1-40 of the Rio Buena Vista residential subdivision, one of which is the Applicant's property. Public access to the easement is from the northern or southern end of the subdivision, or from the Colorado River.
8. The United States Department of the Interior, Bureau of Reclamation (Reclamation), Yuma Area Office conducted a review by boat of the riprap bankline on March 27, 2002 and also conducted a site visit on April 10, 2002. The inspection revealed that the bankline had been cleared of vegetation and that the federally applied riprap and federally constructed jetties were undisturbed and in good condition. By letter dated April 23, 2002, Reclamation acknowledged their capacity to apply additional riprap to the bankline at this location in the future was compromised due to the pending development of the upland residences and subsequently declared that Reclamation would not provide additional riprap to the bankline in the future. Consequently, Reclamation decreed that the upland homeowner (Applicant) would be responsible for maintaining protection of their own banklines in the future, subject to the homeowners seeking approval and permitting of their riprap or bankline construction work from the United States Army Corps of Engineers under Section 10 of the Rivers and Harbors Act of 1899.
9. The riprap bankline mutually benefits both the public and the Applicant, and will be maintained by the Applicant at no cost to the public.

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10. **Rescission of Lease:** The staff recommends that the Commission find that the subject rescission of lease does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

11. **Fire Pit and Riprap Bankline:** The staff recommends that the Commission find that this activity is exempt from the requirements of the 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).

12. **Boat Dock and Gangway:** The staff recommends that the Commission find that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

13. 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
- C. Proposed Design Sketch

**RECOMMENDED ACTION:**

It is recommended that the Commission:

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**CEQA FINDING:**

**Rescission of Lease:** Find that the subject rescission of lease is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**Fire Pit and Riprap Bankline:** 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).

**Boat Dock and Gangway:** 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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

**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:**

1. Authorize the rescission of Lease No. PRC 8968.1, a General Lease – Recreational and Protective approved by the Commission on January 26, 2012.
2. Authorize the issuance of a General Lease – Recreational and Protective Structure Use to Randy A. Baker, Trustee or his Successor(s), for the benefit of the TCOB Trust under declaration of trust dated December 29, 1999, beginning February 22, 2013, for a term of 10 years, for use and maintenance of existing fire pit and riprap bankline, and for the construction, use, and maintenance of a floating dock and gangway located on sovereign land, as described on Exhibit A attached and by this reference made a part hereof and shown on Exhibit B (for reference purposes only); consideration for fire pit, boat dock, and gangway to be \$225 per year; consideration for the riprap bankline to be the public use and benefit, with the State reserving the right to set a monetary consideration if it is

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determined to be in the best interest of the State; combined single-limit liability coverage of not less than \$1,000,000.

## EXHIBIT A

W 26493

### LAND DESCRIPTION

Two parcels of State owned land adjacent to Lot 8 and 9 of Tract No. 15640 as shown on Tract Map filed in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, State of California, more particularly described as follows:

#### PARCEL 1:

BEGINNING at the northerly corner of said Lot 8; thence southeasterly along the northeasterly line of said Lot, said northeasterly line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, S 60°42'46" E 27.53 feet; thence S 55°01'49" E 20.65 feet to the easterly corner of said Lot; thence along the northeasterly line of said Lot 9, said northeasterly line also being said Agreed Boundary Line, S 55°01'49" E 50.42 feet to the easterly corner of said Lot 9; thence leaving said line, along the northeasterly prolongation of the southeasterly line of said Lot 9 N 33°18'50" E 95.04 feet; thence N 55°01'49" W 73.04 feet; thence N 60°42'46" W 34.04 feet to the intersection with the northeasterly prolongation of the northwesterly line of said Lot 8; thence southwesterly along said northeasterly prolongation 95.02 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying waterward of the toe of revetment and beach area adjacent to said Lots 8 and 9.

#### PARCEL 2:

BEGINNING at the most northerly corner of said Lot 8; thence southeasterly along the northeasterly line of said Lot, said northeasterly line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, S 60°42'46" E 27.53 feet; thence S 55°01'49" E 12.56 feet; thence leaving said line N 28°12'18" E 122.00 feet; thence N 61°47'42" W 40.00 feet to the intersection with the northeasterly prolongation of the northwesterly line of said Lot 8; thence southwesterly along said northeasterly prolongation 120.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the toe of revetment and beach area adjacent to said Lots 8 and 9.

The BASIS OF BEARINGS for this description are identical to that shown on Tract Map No. 15640, filed in Book 261 of Maps Pages 88 through 94, inclusive, Official Records of San Bernardino County.

**END OF DESCRIPTION**

Prepared 2/7/2013 by the California State Lands Commission Boundary Unit.

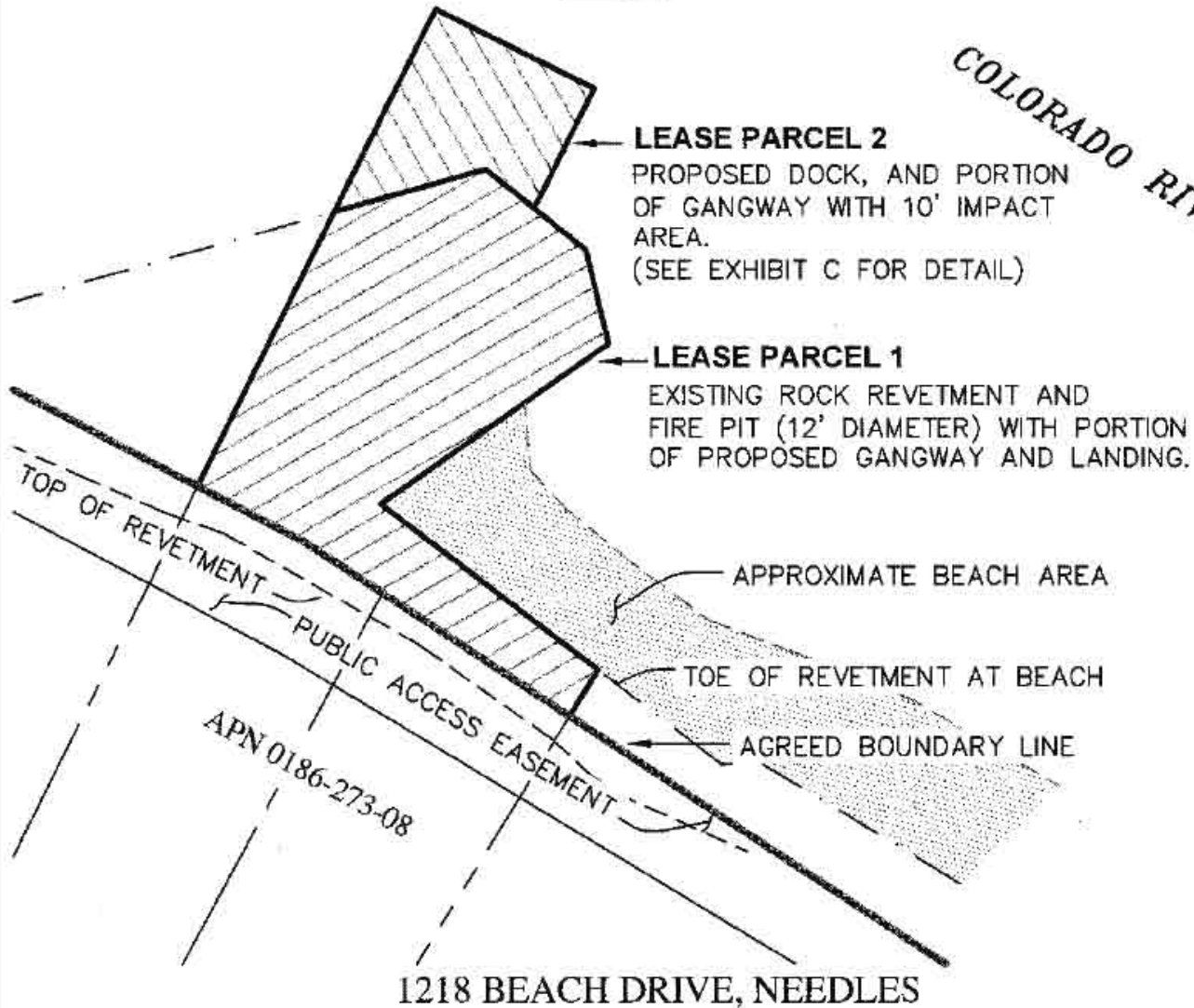




NO SCALE

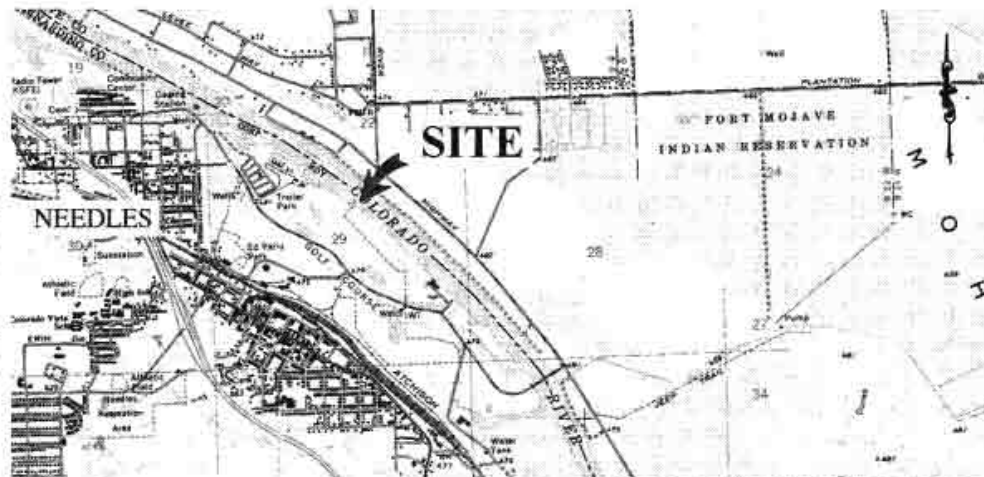
# SITE

COLORADO RIVER



NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

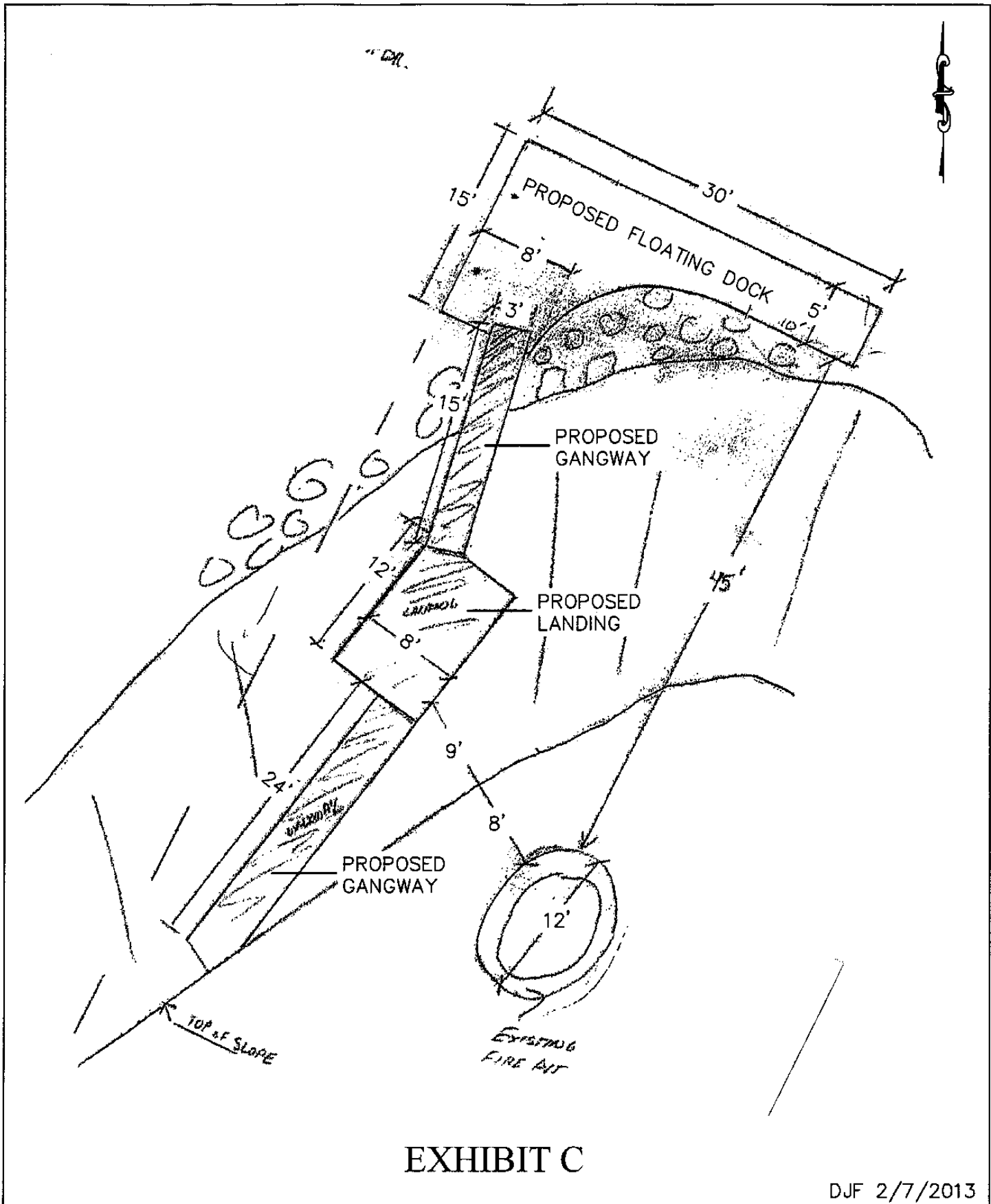
# Exhibit B

W 26493  
 RANDY A. BAKER  
 APN 0186-273-08  
 GENERAL LEASE -  
 RECREATIONAL AND  
 PROTECTIVE STRUCTURE USE  
 SAN BERNARDINO 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.

DMF 02/7/2013



### EXHIBIT C

DJF 2/7/2013

APPLICANT SUBMITTED PROPOSED DESIGN SKETCH  
 W26493, RANDY A. BAKER  
 SAN BERNARDINO COUNTY

CALIFORNIA STATE LANDS COMMISSION

