

**CALENDAR ITEM
C57**

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06/19/14
W 26241
N. Lavoie

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

APPLICANT:

Urban Ernst, Trustee of the Urban and Margaret Ernst Revocable Family Trust,
Dated August 25, 1994

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the historic bed of the San Joaquin River, Atherton Cove,
adjacent to 4 Atherton Island, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Use and maintenance of an existing uncovered floating boat dock, two pilings,
ramp, bulkhead and bank protection not previously authorized by the
Commission.

LEASE TERM:

10 years, beginning June 19, 2014.

CONSIDERATION:

Uncovered floating boat dock, two pilings, and ramp: No monetary
consideration pursuant to Public Resources Code section 6503.5.

Bulkhead and 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 an amount no less than \$1,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises and is applying
for a General Lease – Recreational and Protective Structure Use.

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2. 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 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.
3. The Applicant’s uncovered floating boat dock, two pilings, ramp, bulkhead, and bank protection have been in the historic bed of the San Joaquin River at Atherton Cove, for many years but have not been previously authorized by the Commission. Because the application was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease. Staff recommends approval of the existing uncovered floating boat dock, two pilings, ramp, bulkhead, and bank protection within the lease premises.
4. 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).

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 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

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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 Urban Ernst, Trustee of the Urban and Margaret Ernst Revocable Family Trust, Dated August 25, 1994, beginning June 19, 2014, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock, two pilings, ramp, bulkhead, 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 uncovered floating boat dock, two pilings, and ramp: no monetary consideration pursuant to Public Resources Code section 6503.5; consideration for the bulkhead and 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; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 26241

LAND DESCRIPTION

A parcel of tide and submerged land, whether filled or unfilled, situate in the bed of the Atherton Cove (formerly the bed of the San Joaquin River), lying adjacent to Swamp and Overflowed Land Survey 605, patented August 2, 1871, County of San Joaquin, State of California, and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, ramp and bulkhead lying adjacent to and northeasterly of those lands as described in that Grant Deed, recorded December 14, 2014 in Document Number 95114622 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

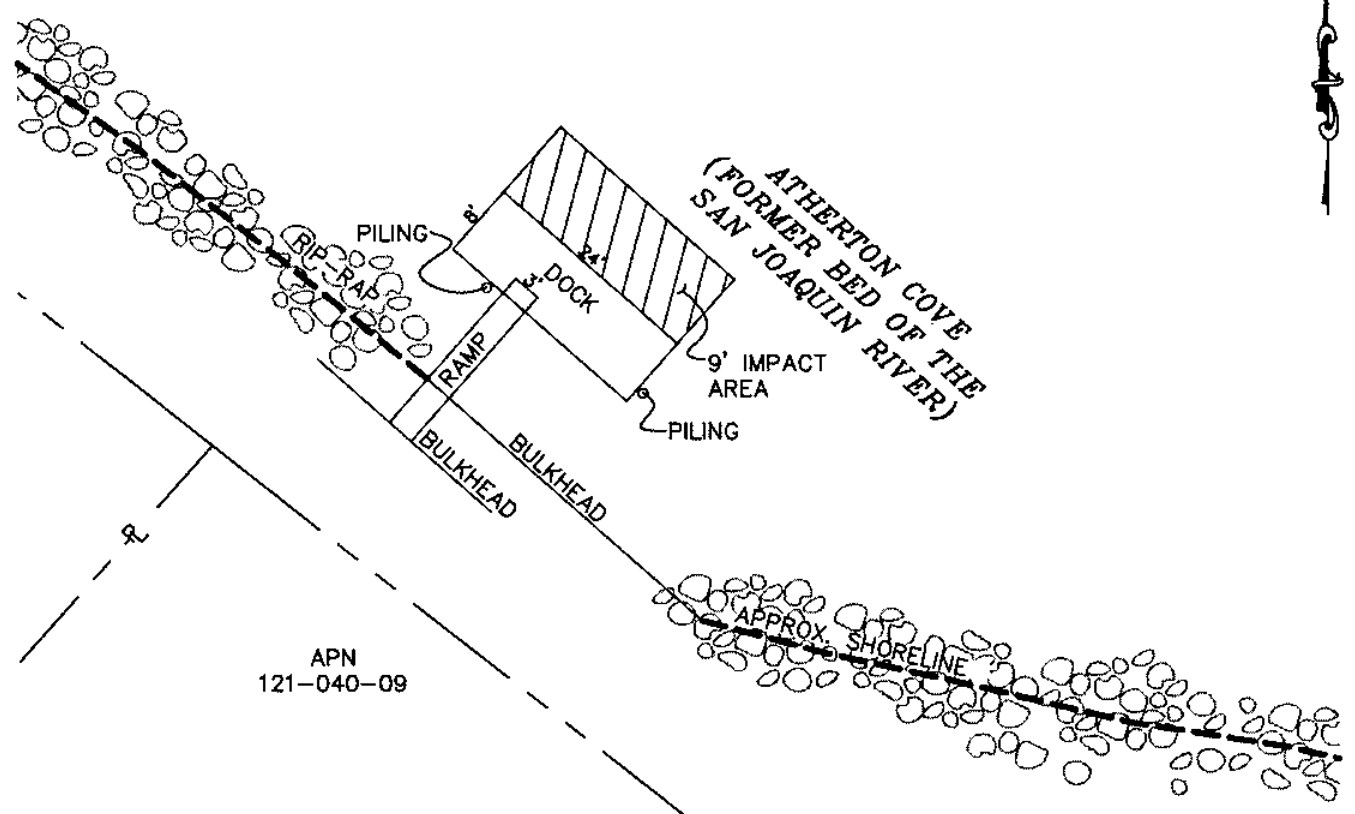
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of the historic San Joaquin River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 6/03/14 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





APN
121-040-09

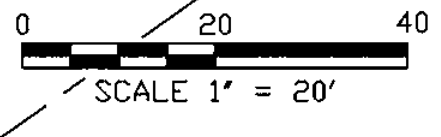


EXHIBIT A

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M. FOSSUM 6/03/14

LAND DESCRIPTION PLAT
W 26241, ERNST
SAN JOAQUIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



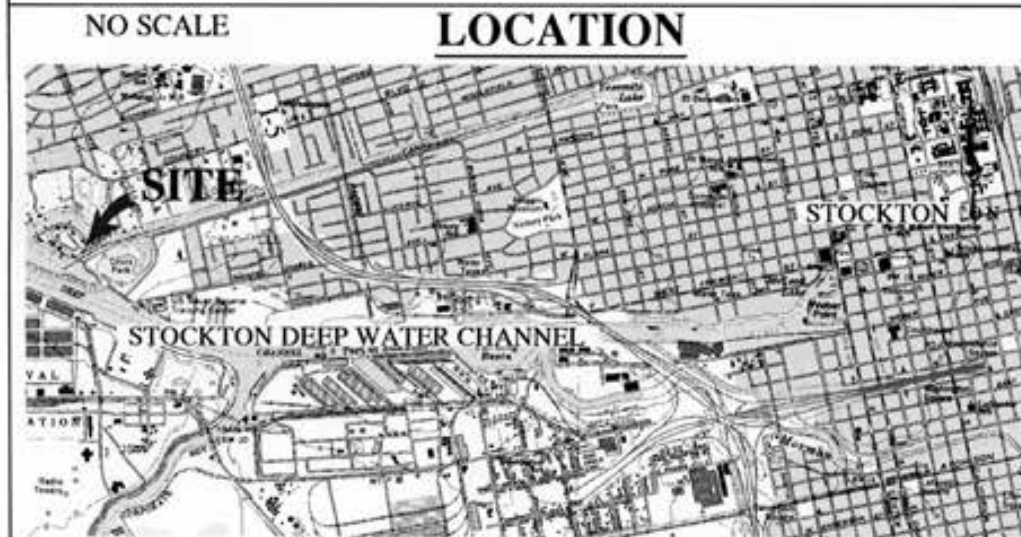
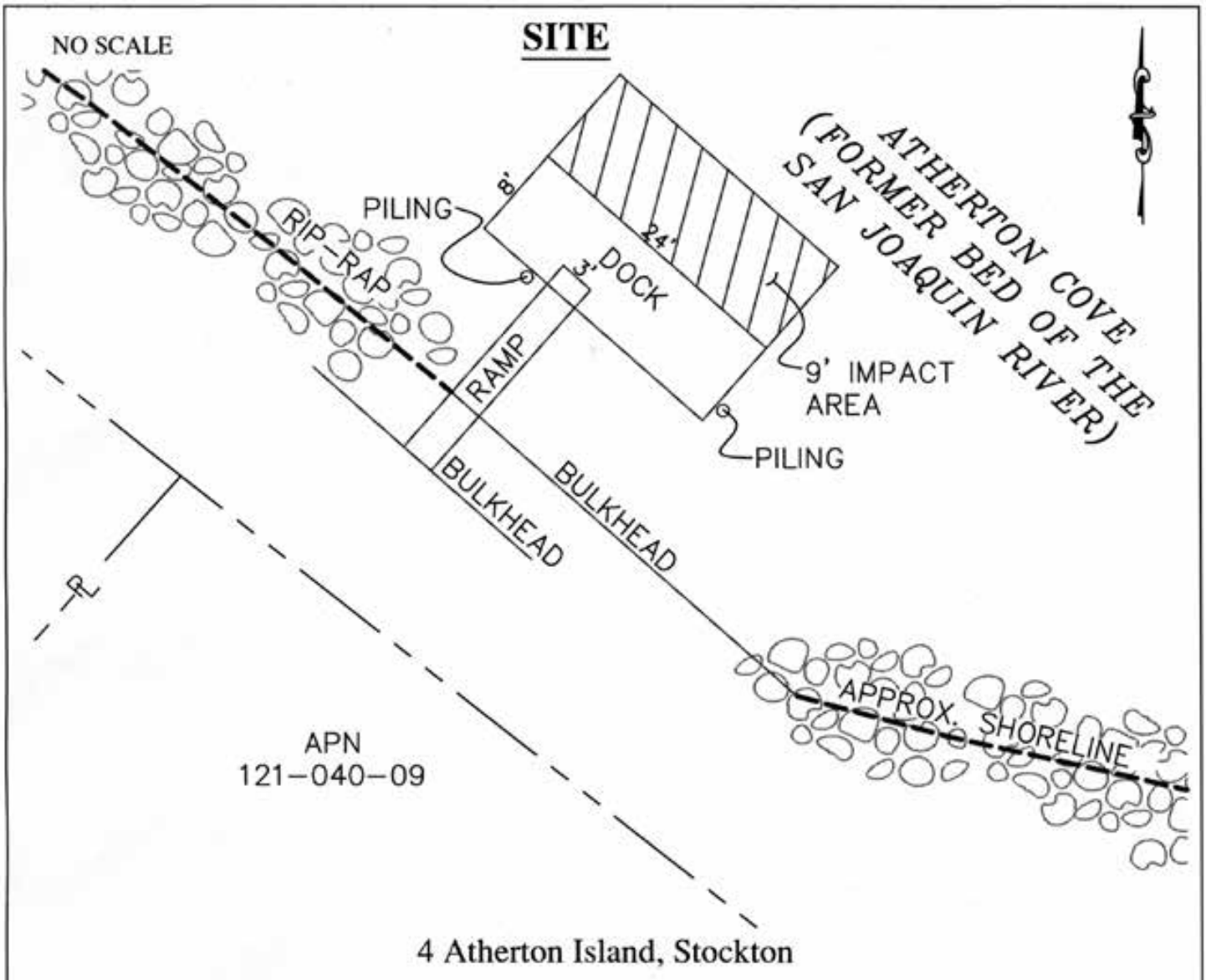


Exhibit B

W 26241
ERNST
APN 121-040-09
GENERAL LEASE -
RECREATIONAL &
PROTECTIVE STRUCTURE USE
SAN JOAQUIN COUNTY



MAP SOURCE: USGS QUAD

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.