

**CALENDAR ITEM
C21**

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08/09/16
PRC 8534.1
D. Tutov

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Frank G. Stathos

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 961 Piedmont Drive near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing boathouse with boat lift, floating boat dock, gangway, two pilings, two-pile dolphin and bank protection.

LEASE TERM:

10 years, beginning August 24, 2016.

CONSIDERATION:

Boathouse with boat lift, floating boat dock, gangway, two pilings, and two-pile dolphin: \$429 per year, with an annual Consumer Price Index adjustment.

Bank protection: 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 interests.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

Should the Commission or City of Sacramento obtain access rights or permissions along the levee from other property owners nearby, Lessee agrees to engage with the Commission or City of

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Sacramento to consider allowing reasonable public access along the crown of the levee on Lessee's property. This provision shall not waive the Lessee's right to receive just compensation.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On August 24, 2006, the Commission authorized a General Lease – Recreational and Protective Structure Use to Frank G. Stathos. That lease will expire on August 23, 2016. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the existing structures. The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The subject dock and appurtenant facilities are for the docking and mooring of boats. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. The dock and appurtenant facilities have existed for many years at this location; the facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the dock and appurtenant facilities will not substantially interfere with Public Trust needs, at this location, at this time, or for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land

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involved. The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources and values for recreational and navigational purposes by the public. In addition, the proposed lease contains a provision that the lessee agrees to engage with the Commission or City to consider allowing reasonable public access along the crown of the levee should the City obtain access rights or permissions along the levee from other property owners nearby. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. 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.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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 Frank G. Stathos beginning August 24, 2016, for a term of 10 years, for the continued use and maintenance of an existing boathouse with boat lift, floating boat dock, gangway, two pilings, two-pile dolphin and bank protection, 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 boathouse with boat lift, floating boat dock, gangway, two pilings, and two-pile dolphin: \$429 per year, with an annual Consumer Price Index adjustment; consideration for the 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 interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8534.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Rancho New Helvitia approved February 18, 1860, County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing covered floating boat house with boat lift, dock, gangway, two pilings and one two-pile dolphin lying adjacent to that parcel as described in "Exhibit "A"" of that Quitclaim Deed, recorded December 10, 2004 in Book 20041210, Page 1989 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

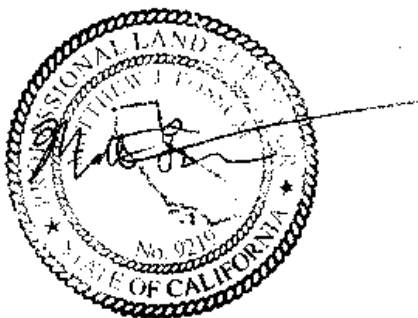
ALSO TOGETHER WITH all those lands underlying any existing bank protective structure lying adjacent to that parcel as described in said Quitclaim Deed.

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 part of this description.

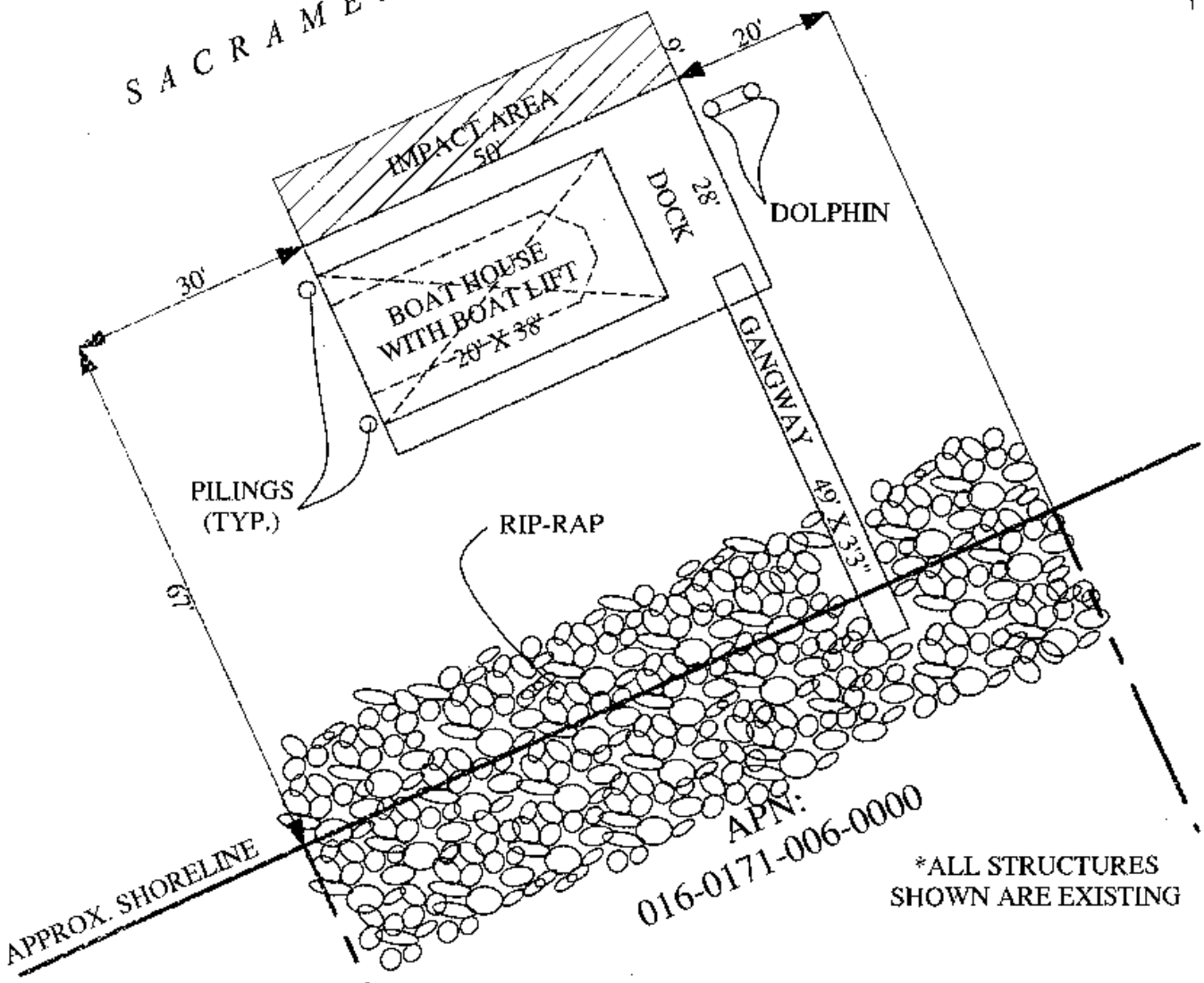
END OF DESCRIPTION

PREPARED 5/18/16 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





SACRAMENTO RIVER



APN: 016-0171-006-0000

*ALL STRUCTURES SHOWN ARE EXISTING

NO SCALE

EXHIBIT A

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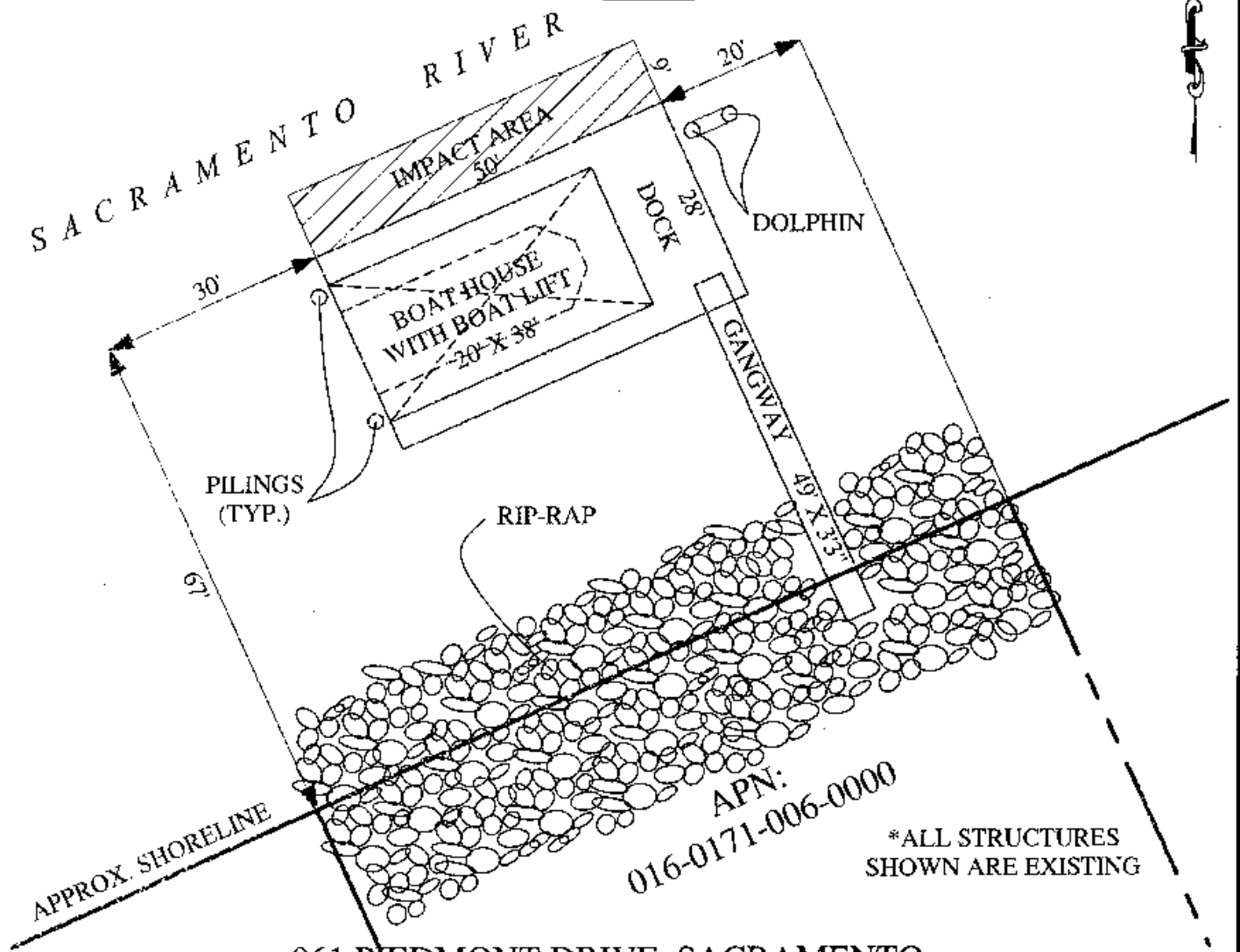
LAND DESCRIPTION PLAT
PRC 8534.1, STATHOS
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



961 PIEDMONT DRIVE, SACRAMENTO

NO SCALE

LOCATION



Exhibit B

PRC 8534.1
 STATHOS
 APN: 016-0171-006-0000
 GENERAL LEASE -
 RECREATIONAL AND
 PROTECTIVE STRUCTURE USE
 SACRAMENTO CO.



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.