CALENDAR ITEM

C09

A	17, 26	12/10/10
		W 26433
S	5	V. Caldwell

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Parke M. Berolzheimer

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the original bed of the San Joaquin River, Atherton Cove, adjacent to 3614 Country Club Boulevard, Stockton, San Joaquin County.

AUTHORIZED USE:

Retention, use, and maintenance of an existing uncovered single-berth floating boat dock, three pilings, gangway, utility conduit for electricity and water, and bank protection not previously authorized by the Commission; and the proposed installation of a solar-powered covered boatlift as shown on Exhibit A.

LEASE TERM:

10 years, beginning December 10, 2010.

CONSIDERATION:

Uncovered Single-Berth Floating Boat Dock, Three Pilings, Gangway, Utility Conduit, and Solar-Powered Covered Boatlift: No monetary consideration pursuant to Public Resources Code section 6503.5.

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 with coverage of no less than $1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

2. On June 16, 2010, Commission staff was notified by the U.S. Army Corps of Engineers (Corps) that the Applicant constructed a 45-foot by 25-foot

single-berth floating boat dock in violation of Section 10 of the Rivers and Harbors Act because the boat dock facility was constructed without obtaining a Corps permit. The Corps is currently consulting with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on applicable mitigation fees and staff understands that the Corp is planning on issuing a Letter of Permission to retain the existing facilities. The Applicant had obtained a Central Valley Flood Protection Board permit in 2009, however, did not construct the dock facilities until early June 2010.

3. Upon receiving the Corps' violation letter, staff contacted the Applicant. An application for the existing boat dock facility and a proposal to install a covered, solar-powered boatlift was subsequently received by Commission staff on August 10, 2010. While processing the lease application, staff also became aware of existing rip rap bank protection which was placed by Reclamation District No.1614 as part of their 2003 levee erosion repair project. The Applicant applied for a General Lease – Recreational and Protective Structure Use.

4. The Applicant qualifies for rent-free use of the existing uncovered single-berth floating boat dock, three pilings, gangway, utility conduit and boatlift because the Applicant is a natural person who owns the littoral land that is improved with a single family dwelling.

5. The bank protection will mutually benefit both the public and the Applicants. The bank of the original bed of the San Joaquin River in Atherton Cove will have additional protection from wave action provided at little cost to the public.

6. **Uncovered Single-Berth Floating Boat Dock, Three pilings, Gangway, Utility Conduit, and Proposed Solar-Powered Covered Boatlift:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures, Title 2, California Code of Regulations, section 2905 (c)(1).

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

7. **Bank Protection:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff determined this activity is exempt from the requirements of

CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; Title 14, California Code of Regulations, section 15304

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

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 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 staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

Central Valley Flood Protection Board

APPROVALS REQUIRED:

U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service

EXHIBIT:

A**.** Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

Uncovered Single-Berth Floating Boat Dock, Three Pilings, Gangway, Utility Conduit, and Proposed Solar-Powered Covered Boatlift: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures, Title 2, California Code of Regulations, section 2905 (c)(1).

Existing Bank Protection:

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code Of Regulations, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; Title 14, California Code of Regulations, section 15304.

SIGNIFICANT LANDS INVENTORY FINDING:

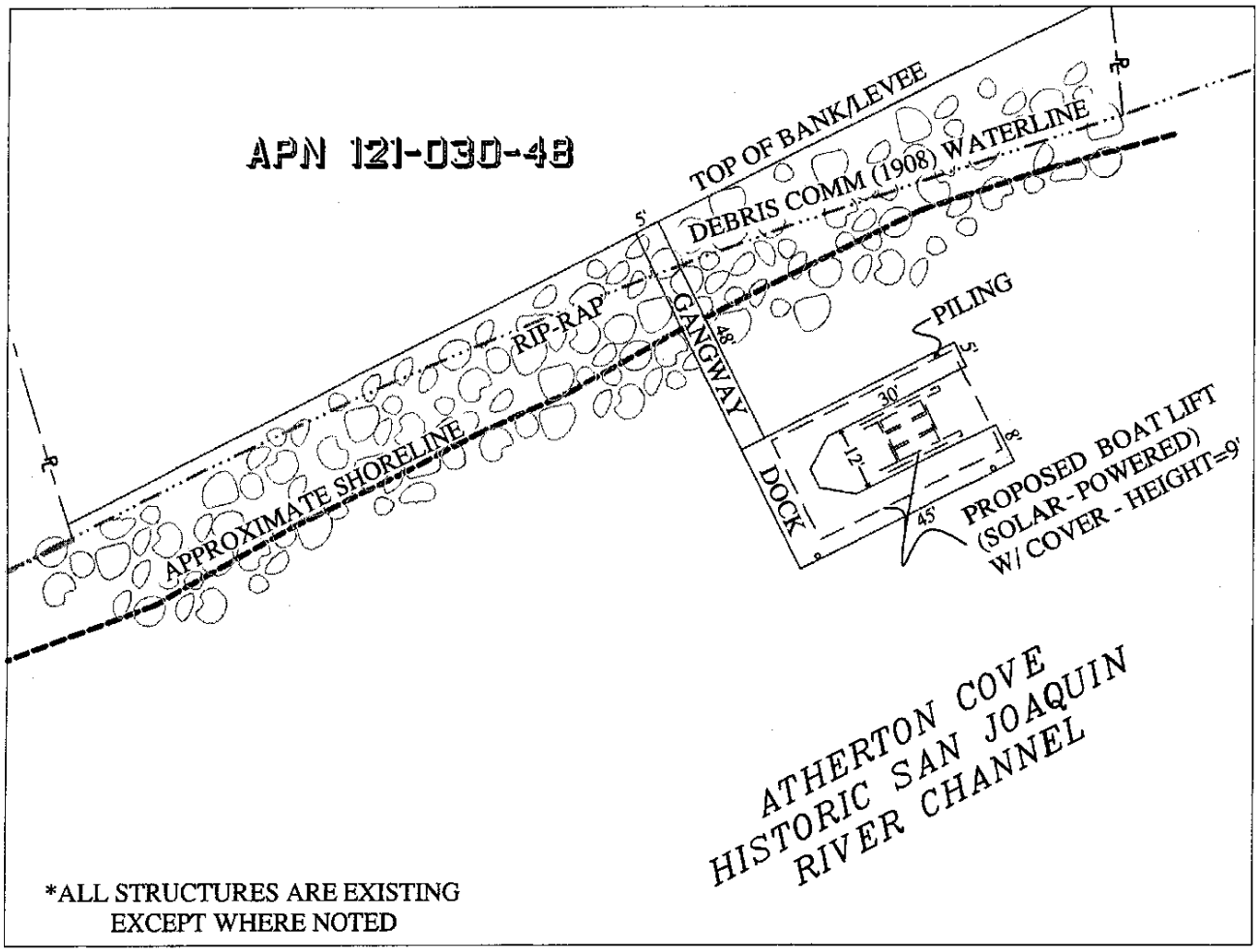
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

Authorize issuance of a General lease – Recreational and Protective Structure Use to Parke M. Berolzheimer beginning December 10, 2010, for a term of 10 years, for the retention of an existing uncovered single-berth floating boat dock, three pilings, gangway, utility conduit for electricity and water, bank protection, and installation of a solar-powered covered boatlift as shown on Exhibit A attached and by this reference made a part hereof; consideration for the existing uncovered single-berth floating boat dock, three pilings, gangway, utility conduit, and solar-powered covered boatlift: no monetary consideration pursuant to Public Resources Code section 6503.5; 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 best interest; and liability insurance in the amount of no less than $1,000,000.

NO SCALE

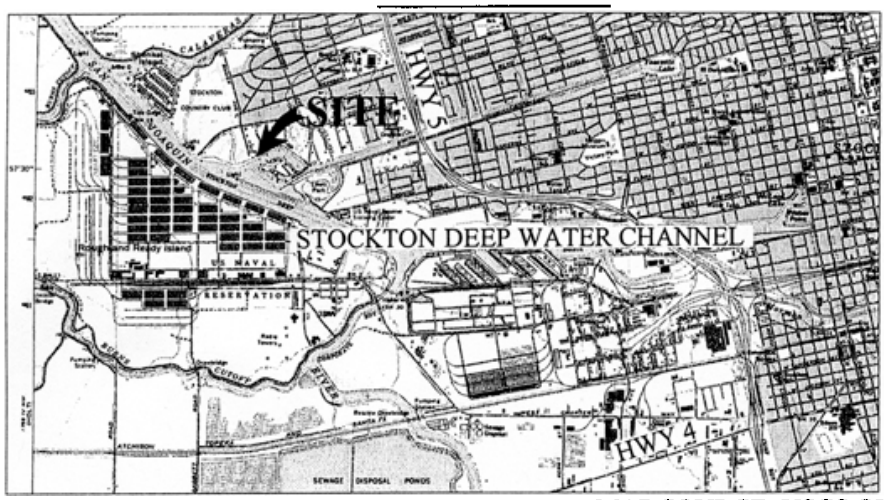
SITE



3614 Country Club Blvd., Stockton

NO SCALE

LOCATION



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.

Exhibit A

W 26433
BEROLZHEIMER
APN 121-030-48
GENERAL LEASE
RECREATIONAL &
PROTECTIVE STRUCTURE USE
SAN JOAQUIN COUNTY

MJF 9/21/10