CALENDAR ITEM
C19

A	2, 5	03/29/12
		PRC 7916.1
S	4, 6	V. Caldwell

TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

LESSEES:
John D. Bayless and Pamela C. Bayless

APPLICANTS:
Chris R. Johnson and Heidi Lynn Kellis-Johnson

AREA, LAND TYPE, AND LOCATION:
Sovereign land in the Sacramento River, adjacent to 6601 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:
Continued use and maintenance of an existing uncovered floating boat dock with fish cleaning sink, gangway, and bank protection previously authorized by the Commission; and the use and maintenance of existing galvanized cables not previously authorized by the Commission.

LEASE TERM:
10 years, beginning March 29, 2012.

CONSIDERATION:
Uncovered floating boat dock with fish cleaning sink, galvanized cables, and gangway: $147 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 13, 2007, the Commission authorized a 10-year General Lease - Recreational and Protective Structure Use to John C. Bayless and Pamela C. Bayless for an existing uncovered floating boat dock with fish cleaning sink, gangway, and bank protection. The lease expires on September 12, 2017. On June 30, 2011, the upland property was transferred to Chris R. Johnson and Heidi Lynn Kellis-Johnson. Staff made several attempts to obtain a quitclaim deed from the prior owners but was unsuccessful. The Applicants are requesting to terminate the existing lease and are applying for a new General Lease – Recreational and Protective Structure Use.

3. 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.

   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 galvanized cables secure the dock to the upland and have existed at this site for many years, but were not previously authorized by the Commission. Because they are consistent with the Public Trust, staff recommends approval of the existing galvanized cables within the lease premises.

5. The bank protection mutually benefits both the public and the Applicants. The bank of the Sacramento River will have additional protection from wave action provided at little cost to the public.

6. **Termination of Lease:** The staff recommends that the Commission find that the subject termination of existing 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.

7. **Issuance of a New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §15061), the staff has determined that this activity is exempt from the requirements of 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.

8. 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:

Termination of Existing Lease: Find that the subject termination of existing 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.

Issuance of a New Lease: 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:

1. Authorize termination, effective March 28, 2012, of Lease No. PRC 7916.9, a Recreational Pier Lease, issued to John D. Bayless and Pamela C. Bayless.

2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Chris R. Johnson and Heidi Lynn Kellis-Johnson, beginning March 29, 2012, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock with fish cleaning sink, gangway, and bank protection previously authorized by the Commission; and use and maintenance of existing galvanized cables 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 with fish cleaning sink, galvanized cables and gangway: $147 per year, with the State reserving the right to fix a different rent periodically during the lease term, 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 best interest; and liability insurance in the amount of no less than $1,000,000.

EXHIBIT A

PRC 7916.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Survey 922 patented November 30, 1900, in the County of Sacramento, State of California, and more particularly described as follows:

> All those lands underlying an existing uncovered floating boat dock, sink and gangway, adjacent to Parcel A in that Grant Deed recorded April 26, 2004, in Book 20040426, Page 2730 in Official Records of said County.

TOGETHER WITH a ten foot use area.

ALSO TOGETHER WITH two (2) cable ties lying adjacent to said Parcel.

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

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

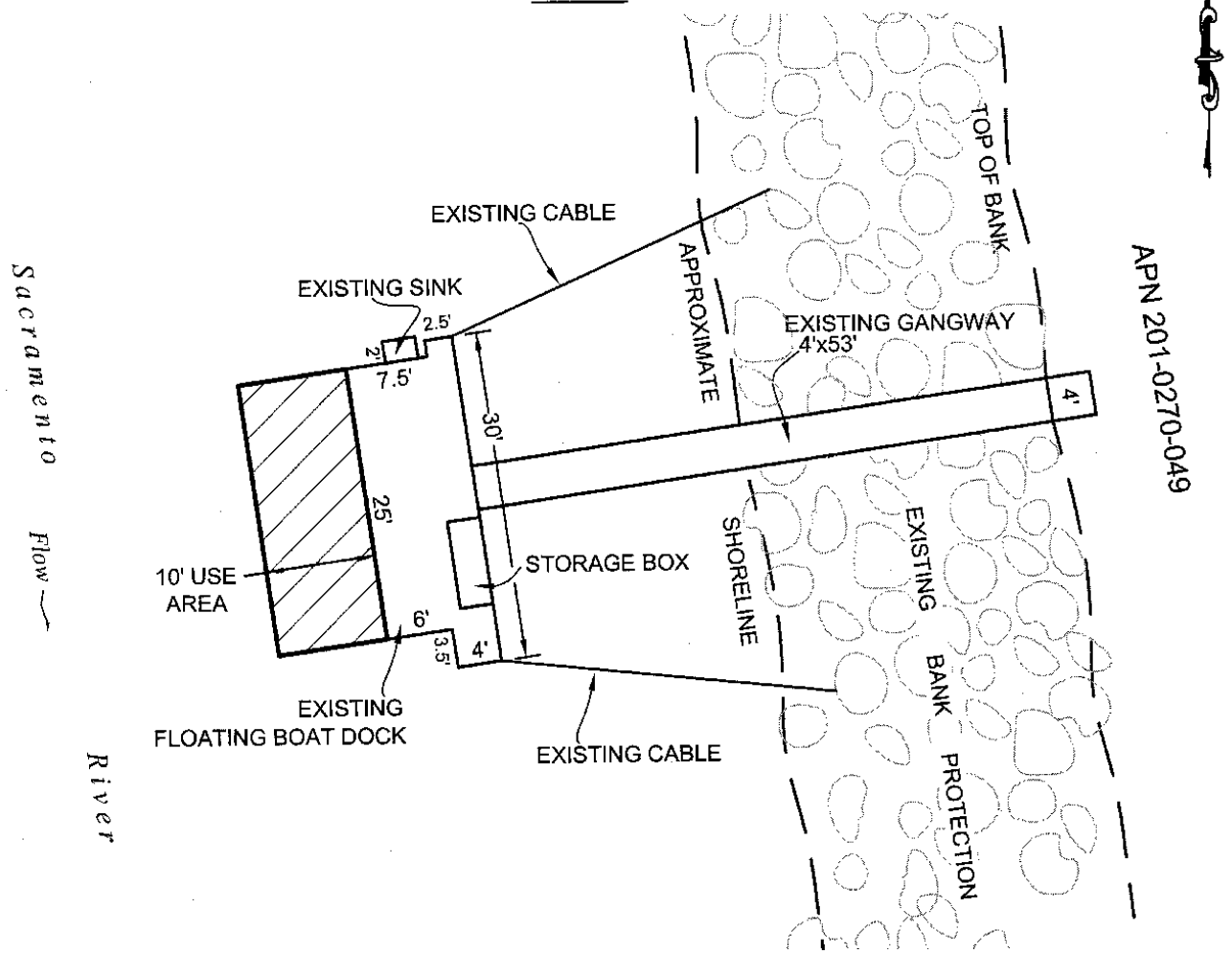
Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared February 15, 2012 by the California State Lands Commission Boundary Unit.

NO SCALE

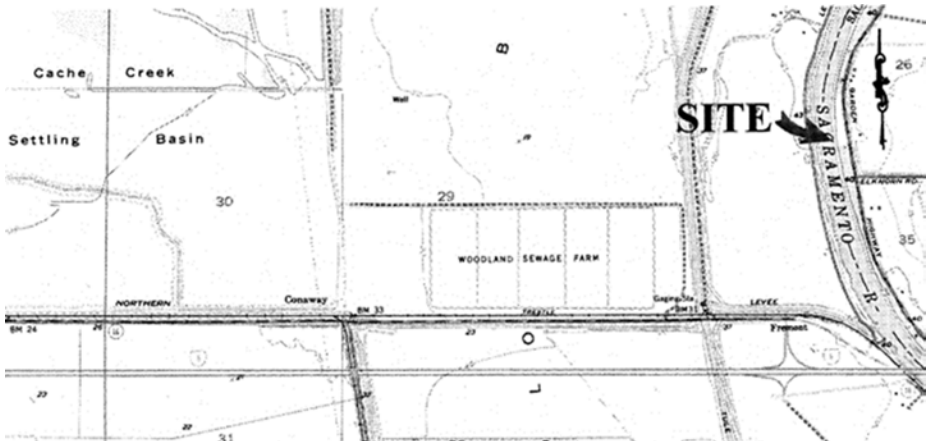
SITE



6601 GARDEN HIGHWAY, SACRAMENTO

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 B

PRC 7916.1
JOHNSON
APN 201-0270-049
GENERAL LEASE - RECREATIONAL USE & PROTECTIVE STRUCTURE
SACRAMENTO COUNTY

MJJ 02/14/12