

**CALENDAR ITEM
C10**

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PRC 5935.1

V. Caldwell

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

William R. Schomberg and Karen M. Schomberg

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 3099 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing covered single-berth floating boat dock with boatlift, three pilings, gangway with stairs, electric and water utility outlets, portable jet-ski dock, and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

Covered Single-Berth Floating Boat Dock with Boatlift, Three Pilings, Gangway with Stairs, Electric and Water Utility Outlet, and Portable Jet-Ski Dock: \$399 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 with coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.

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2. On December 12, 1990, the Commission authorized a Recreational Pier Lease to James and Lorraine Johnson. That lease expired on December 11, 2000. Several months prior to the expiration of the Lease, the Johnsons notified Commission staff that the dock and gangway had been washed away and two pilings remained. Staff informed the Johnsons over the following years that the two existing pilings would need to be removed. On December 14, 2004, staff received photographs from the Johnsons showing the site clear and the pilings removed.
3. In 2006, the upland property was transferred to Kurt Kneeland. Mr. Kneeland requested information on constructing a new dock and obtaining a lease. To staff's knowledge, a new dock was never built. The upland property was foreclosed by Bear Stearns and, on April 27, 2009, US Bank National Association, as Trustee for the holder of Bear Stearns Asset Backed Securities I Trust 2006-IM1, transferred the property to William R. Schomberg and Karen M. Schomberg.
4. In September 2011, staff was notified that new pilings had been driven at the site. Staff contacted William R. Schomberg and Karen M. Schomberg regarding obtaining a lease, and an application was received on September 23, 2012. The Applicants installed the existing covered single-berth floating boat dock with boatlift, three pilings, gangway with stairs, electric and water utility outlets, and portable jet-ski dock without prior authorization from the Commission, and are now requesting authorization for a new General Lease – Recreational and Protective Structure Use.
5. The Applicants have obtained an after-the-fact letter of permission from the U.S. Army Corps of Engineers, and an encroachment permit from the Central Valley Flood Protection Board, and Reclamation District 1000.
6. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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

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- 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.

- 7. The bank protection has existed at the site for several years, but was not previously authorized by the Commission. The bank protection will mutually benefit 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.
- 8. 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.

- 9. 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.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers, Central Valley Flood Protection Board,
Reclamation District 1000

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

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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 William R. Schomberg and Karen M. Schomberg, beginning May 24, 2012, for a term of 10 years, for an existing covered single-berth floating boat dock with boatlift, three pilings, gangway with stairs, electric and water utility outlets, portable jet-ski dock, 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 existing covered single-berth floating boat dock with boatlift, three pilings, gangway with stairs, electric and water utility outlets, and portable jet-ski dock: annual rent in the amount of \$399, 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 5935.1

LAND DESCRIPTION

A parcel of tide and submerged land, whether filled or unfilled, situate in the bed of the Sacramento River lying adjacent to Swamp and Overflowed Land Survey 284, patented December 22, 1868, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing covered floating boat dock, jet-ski float, stairs, and gangway lying adjacent to and westerly of those lands as described in "Exhibit A" of that Grant Deed, recorded April 27, 2009 in Book 20090427, Page 0109 in Official Records of said County.

TOETHER WITH all those lands underlying said existing wing dam lying approximately 140 feet southerly of said existing gangway.

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

ALSO TOGETHER WITH a 10 foot use area.

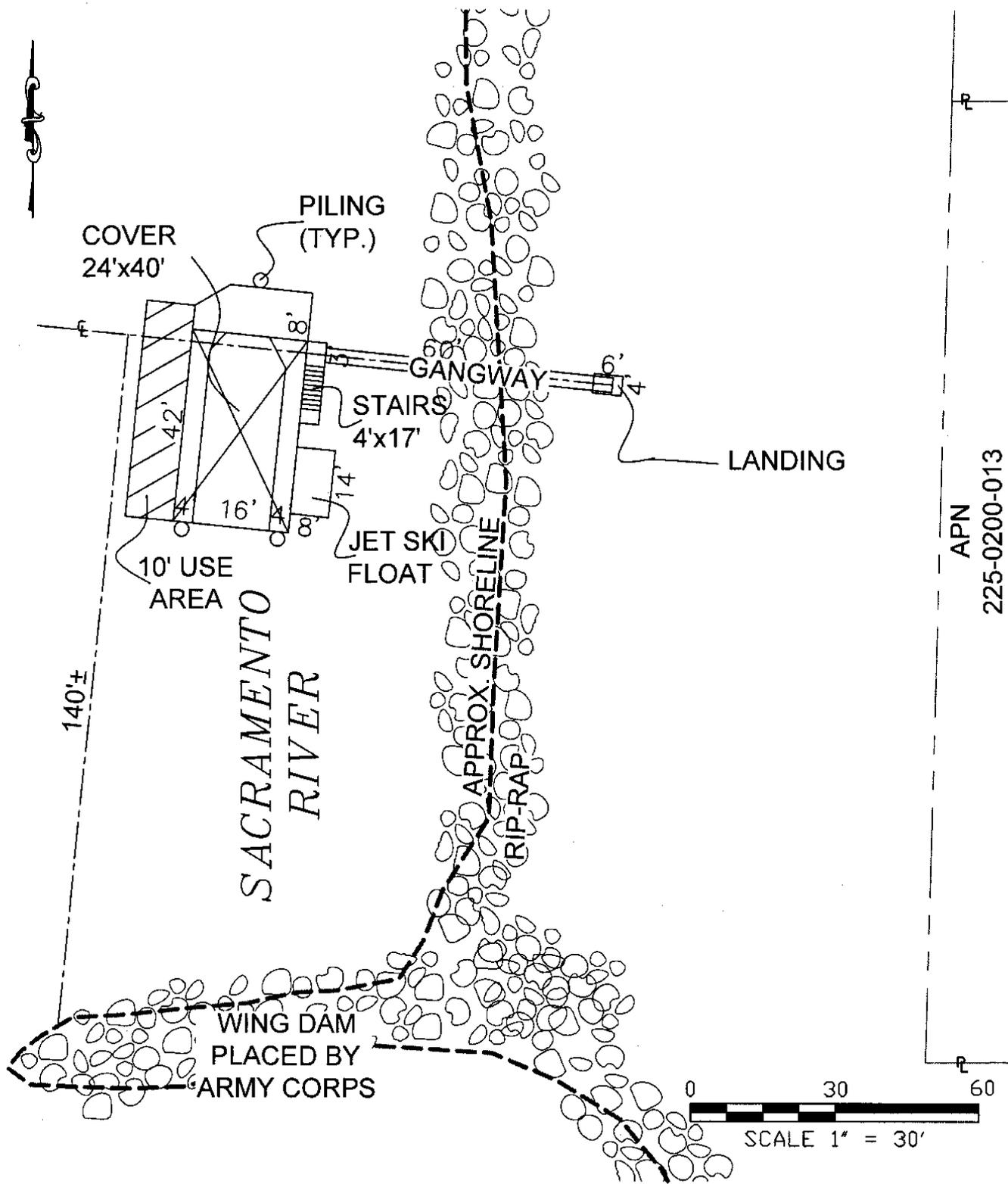
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of the historic Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 2/27/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





APN
225-0200-013

EXHIBIT A

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MJF 2/27/12

LAND DESCRIPTION PLAT
PRC 5935.1, SCHOMBERG
SACRAMENTO COUNTY

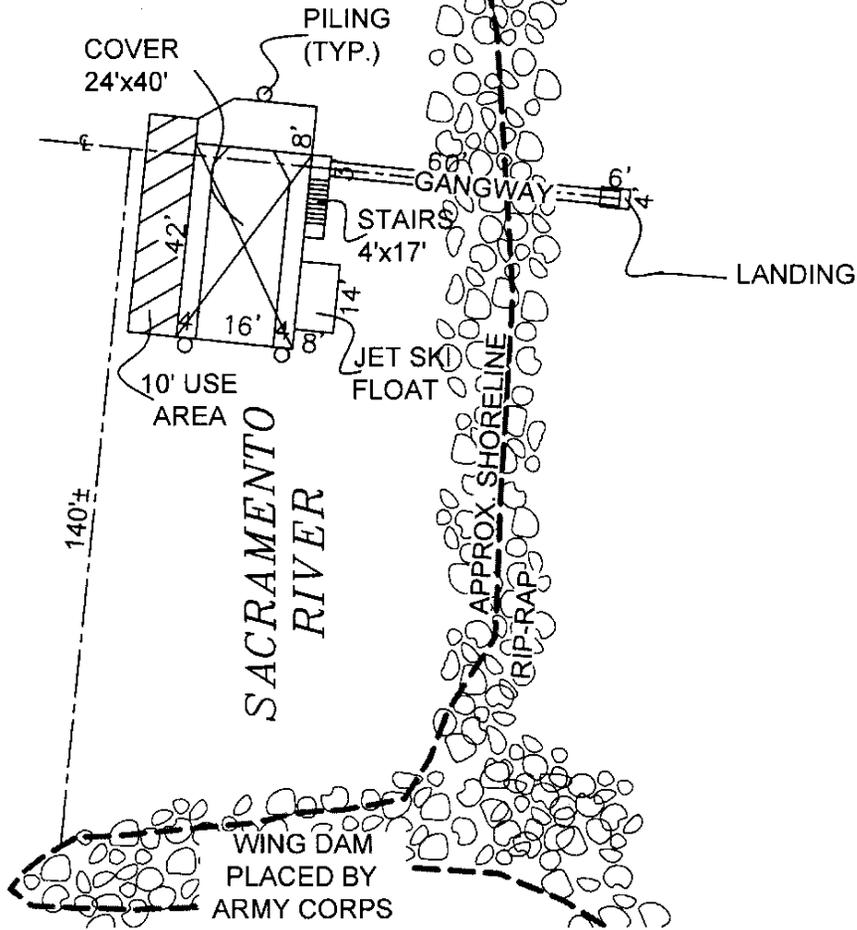
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

*ALL STRUCTURES SHOWN ARE EXISTING

SITE



APN 225-0200-013

3099 Garden Highway

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5935.1
 SCHOMBERG
 APN 225-0200-013
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SACRAMENTO 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.