

**CALENDAR ITEM  
C12**

A 5, 9  
S 6

05/24/12  
PRC 8630.1  
V. Caldwell

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

**LESSEES:**

Danny Lund and Cheryl Lund

**APPLICANTS:**

James A. Carter and Judith M. Carter, Trustees of the James and Judie Carter Revocable Trust of 1996

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Sacramento River, adjacent to 3001 Garden Highway, near the city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

Construction, use, and maintenance of an uncovered single-berth floating boat dock and ramp; and continued use and maintenance of four existing steel pilings and bank protection.

**LEASE TERM:**

10 years, beginning May 24, 2012.

**CONSIDERATION:**

**Uncovered single-berth floating boat dock, four steel pilings, and ramp:** \$369 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.

CALENDAR ITEM NO. **C12** (CONT'D)

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. On August 8, 2005, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Danny Lund and Cheryl Lund, for the construction, use, and maintenance of a single-berth floating boat dock, four steel pilings, ramp, and bank protection. The lease expires on July 31, 2015.
3. In 2010, the upland property was foreclosed by Wells Fargo Bank, NA, and was sold to James A. Carter and Judith M. Carter, Trustees of the James and Judie Carter Revocable Trust of 1996 on May 15, 2011. The Applicants are requesting termination of the existing lease and are applying for a new General Lease – Recreational and Protective Structure Use.
4. While conducting a rent review in 2010, staff became aware that four steel pilings exist, but the previously authorized floating boat dock and ramp did not exist. Since only the four steel pilings and bank protection currently exist on site, the Applicants are proposing to construct the uncovered single-berth floating boat dock and ramp as originally proposed utilizing the existing pilings.
5. The Applicants have obtained letters of permission from the U.S. Army Corps of Engineers, Central Valley Flood Protection Board, and Reclamation District 1000. The replacement dock will be assembled offsite and floated in using a boat. The ramp will be lowered into position using a barge-mounted crane. The dock and ramp will have an aluminum frame and aluminum decking.
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

CALENDAR ITEM NO. **C12** (CONT'D)

- 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 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. **Termination of Existing 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.

9. **New Construction Of Uncovered Floating Boat Dock, And Ramp:** 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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

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

10. **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.

CALENDAR ITEM NO. **C12** (CONT'D)

11. 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, and Reclamation District 1000

**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.

**New Construction Of Uncovered Floating Boat Dock, And Ramp:** 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 (c)(1).

**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.

CALENDAR ITEM NO. C12 (CONT'D)

**AUTHORIZATION:**

1. Authorize termination, effective May 23, 2012, of Lease No. PRC 8630.1, a General Lease – Recreational and Protective Structure Use, issued to Danny Lund and Cheryl Lund.
  
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to James A. Carter and Judith M. Carter, Trustees of the James and Judie Carter Revocable Trust of 1996, beginning May 24, 2012, for a term of 10 years, for the construction, use, and maintenance of an uncovered single-berth floating boat dock and ramp; and the continued use and maintenance of four existing steel pilings 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 uncovered single-berth floating boat dock, four steel pilings, and ramp: \$369 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 rent 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 8630.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 284 surveyed April 25, 1859, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying a proposed uncovered single-berth floating boat dock, ramp and four existing pilings lying adjacent to the left bank of said river and being adjacent to Lot 13, as described in Grand Deed, recorded May 18, 2011 in Book 20110518 at Page 1138 in Official Records of said County.

TOGETHER WITH a 10' use area.

ALSO TOGETHER with all those lands underlying any existing bank protection.

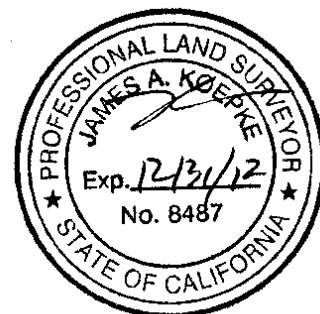
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

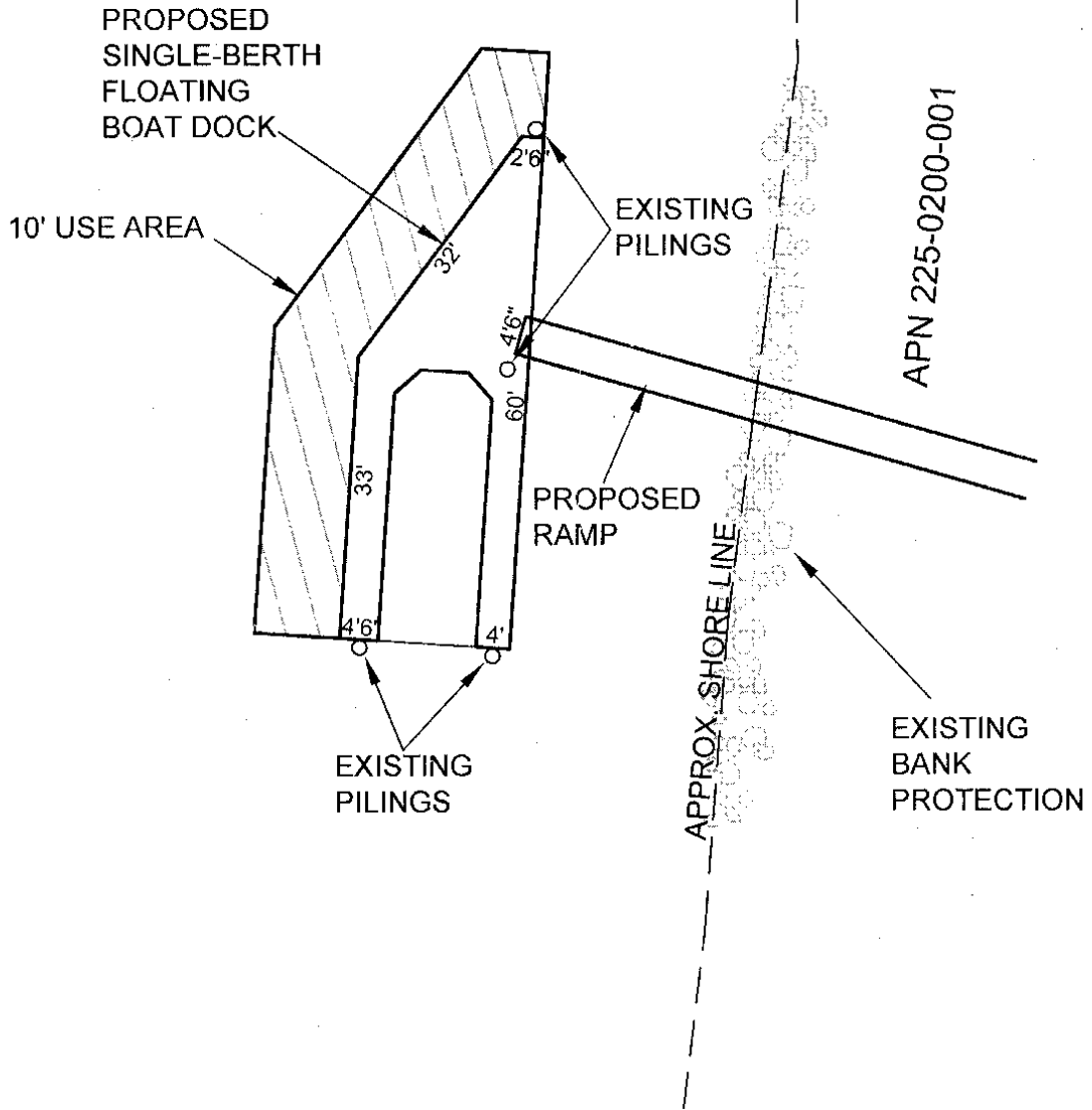
**END OF DESCRIPTION**

This description is based on Applicant provided design plans found in the Application for Lease of State Lands for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once as-built plans are submitted.

Prepared 03/21/12 by the California State Lands Commission Boundary Unit



SACRAMENTO RIVER



### EXHIBIT A

Page 2 of 2

TS 03/21/12

LAND DESCRIPTION PLAT  
PRC 8630.1, JAMES A. CARTER &  
JUDITH M. CARTER, TRUSTEES  
SACRAMENTO COUNTY

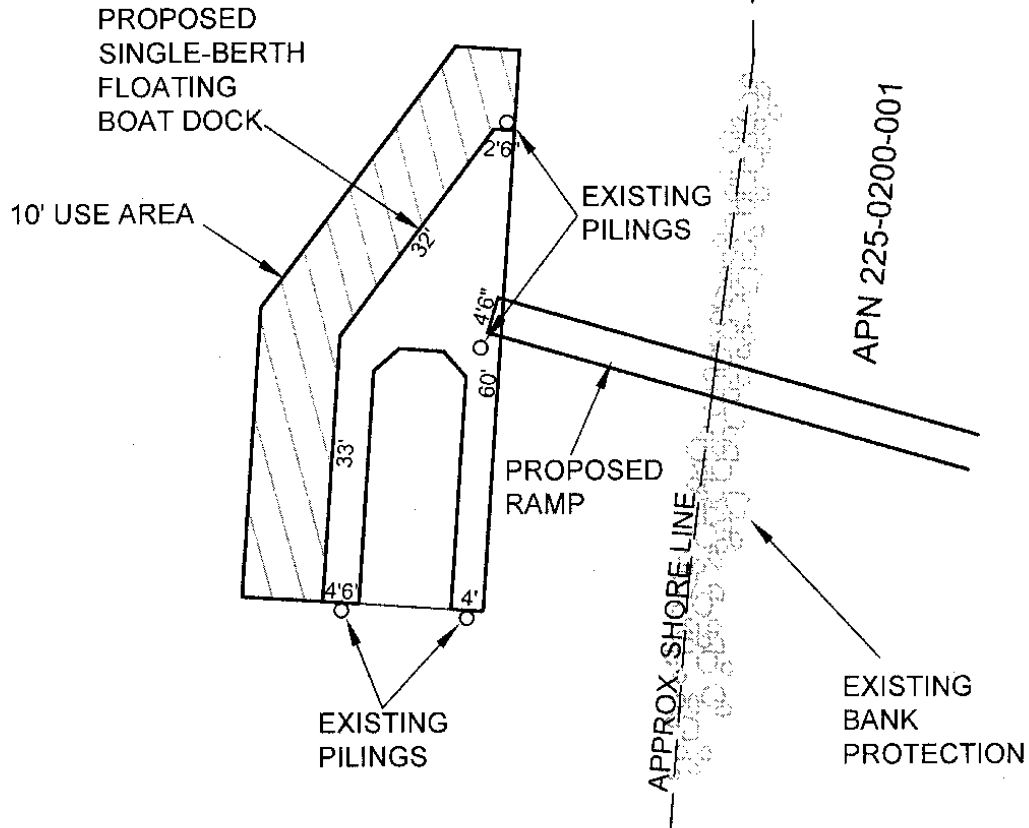
CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

### SITE

SACRAMENTO RIVER



3001 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### Exhibit B

PRC 8630.1

JAMES A. CARTER & JUDITH M. CARTER, TRUSTEES  
 APN 225-0200-001  
 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.

TS 03/21/12