

CALENDAR ITEM
C22

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05/24/12
PRC 8351.9
N. Lavoie

**GENERAL LEASE – RECREATIONAL AND
PROTECTIVE STRUCTURE USE**

APPLICANT:

Ethan Conrad

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 6915 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing single-berth uncovered floating boat dock, three pilings, and gangway previously authorized by the Commission, and two existing floating jet-ski ramps, a boat lift, and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

Single-berth uncovered floating boat dock, boat lift, two floating jet-ski ramps, three pilings, and gangway: 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 in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. On November 26, 2001, the Commission authorized a Recreational Pier Lease to Ethan G. Conrad for the construction of a floating boat dock with three pilings and a gangway. That lease expired on October 31, 2011. The Lessee now holds title to the upland property as Ethan Conrad and is now 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 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
 - B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

Because the application was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease. Therefore, no rent will be charged.
4. The Applicant installed two floating jet-ski ramps and a boat lift without the authorization of the Commission. Because they are consistent with the Public Trust, staff recommends approval of the existing jet-ski ramps and boat lift within the lease premises.
5. The bank protection has existed at this site for many years and is now being incorporated in this lease. The bank protection will mutually benefit both the public and the Applicant. The bank of the Sacramento River along Garden Highway will have additional protection from wave action provided at no cost to the public.

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6. 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.

7. 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:

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 Ethan Conrad, beginning May 24, 2012, for a term of 10 years, for the continued use and maintenance of an existing single-berth uncovered floating boat dock, three pilings, gangway, and use and maintenance of two existing floating jet-ski ramps, a boat lift, and bank protection described in Exhibit A and shown on Exhibit B (for reference

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purposes only) attached and by this reference made a part hereof; consideration for the single-berth uncovered floating boat dock, boat lift, two floating jet-ski ramps, three pilings, and gangway: 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 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 8351.9

LAND DESCRIPTION

A parcel of tide and submerged land situate in the Sacramento River, lying adjacent to Swamp and Overflow Survey No. 922, patented July 16, 1898, County of Sacramento, State of California, and more particularly described as follows

PARCEL 1 – DOCK

All those lands underlying an existing single-berth floating boat dock, boat lift, two (2) floating jet-ski ramps, gangway and dock lying adjacent to that parcel as described in Exhibit “A” of that Grant Deed recorded March 7, 2011, in Book 20110307 Page 0870 in Official Records of said County.

TOGETHER WITH a 10 foot use area.

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.

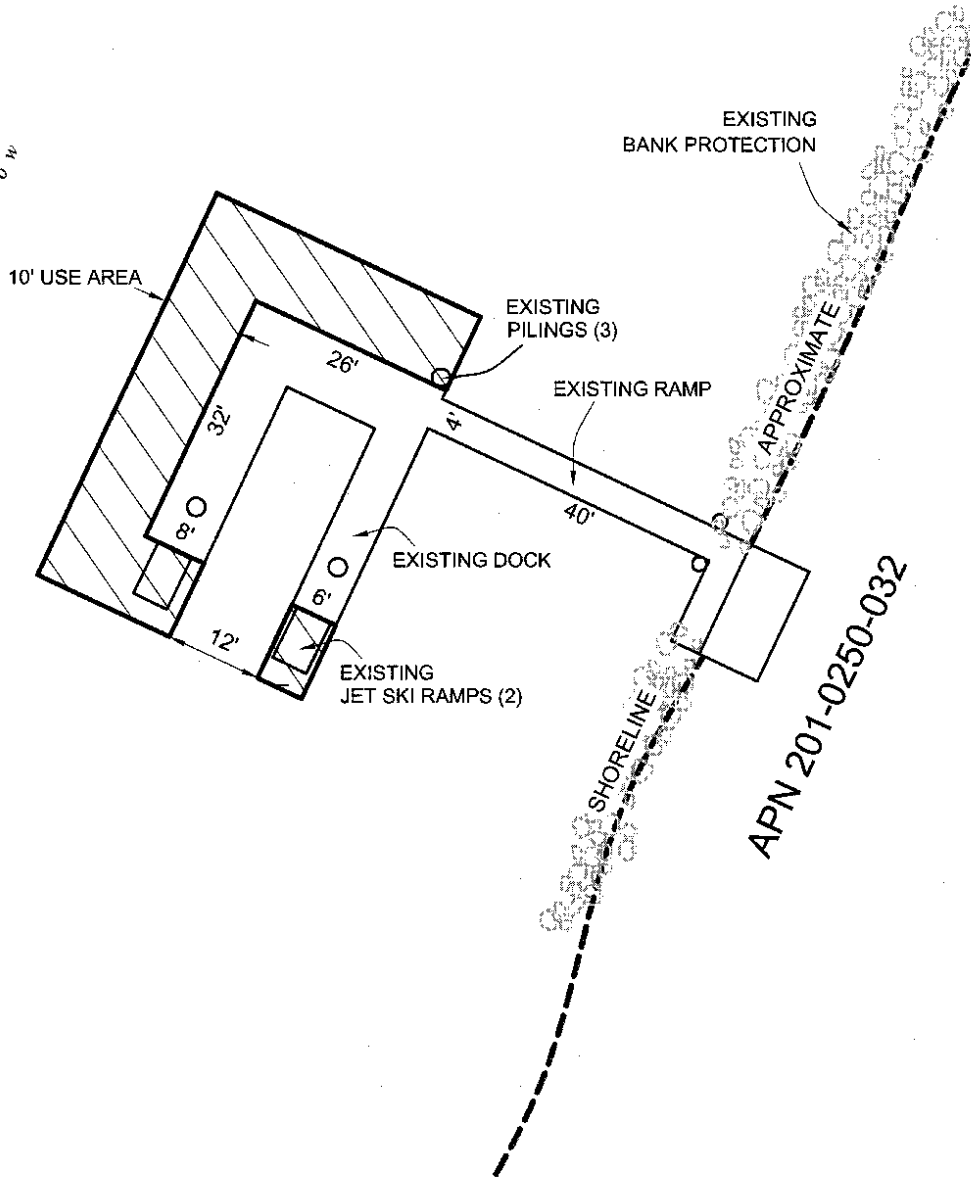
Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 13, 2012 by the California State Lands Commission Boundary Unit.



Sacramento River
Flow



APN 201-0250-032

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 8351.9, CONRAD
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

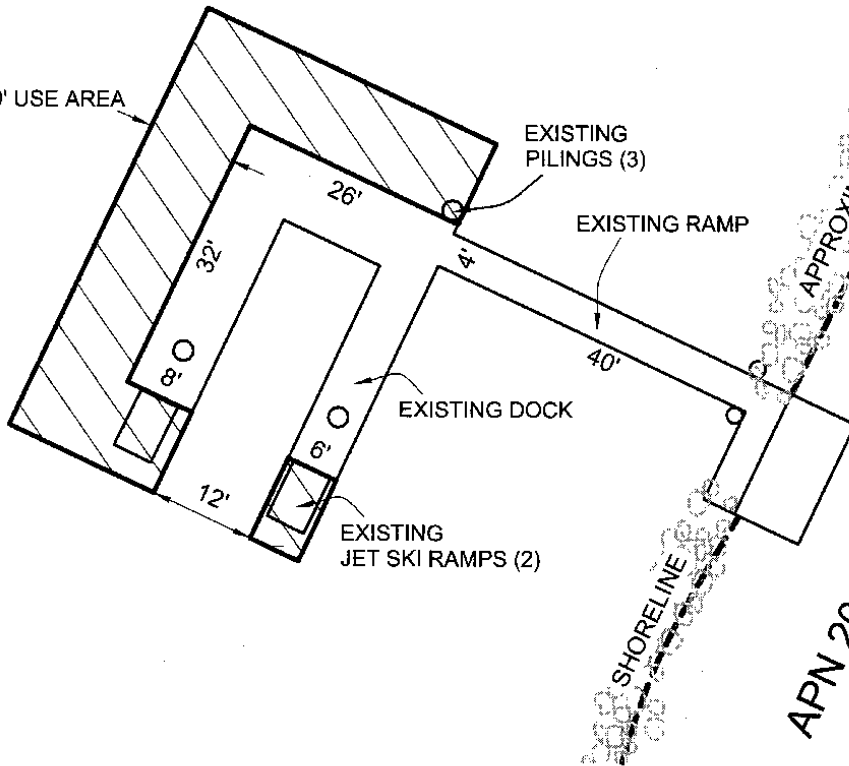


NO SCALE

SITE

Sacramento River
Flow

10' USE AREA



6915 GARDEN HIGHWAY, NEAR SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8351.9
 CONRAD
 APN 201-0250-032
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SACRAMENTO COUNTY



SITE

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.

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