

**CALENDAR ITEM
C56**

A 67
S 35

05/24/12
PRC 3576.1
S. Paschall

REVISION OF RENT

LESSEES:

James L. Andrews and Katherine A. Andrews, Trustees of the James L. Andrews and Katherine A. Andrews Family Trust Created September 7, 2000.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Huntington Harbour, adjacent to 17041 Bolero Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock, access ramp, and cantilevered deck extending no more than five feet waterward of the bulkhead.

LEASE TERM:

10 years, beginning July 1, 2007.

CONSIDERATION:

This lease provides that the State may modify the rent periodically during the lease term. Pursuant to this provision, staff has conducted a review of the rent under this lease, and recommends that the rent for the cantilevered deck be revised from \$788 per year to \$945 per year, effective July 1, 2012.

OTHER PERTINENT INFORMATION

1. On September 13, 2007, the Commission approved issuance of a General Lease – Recreational Use for a 10-year term, beginning July 1, 2007, to James L. Andrews and Katherine A. Andrews, Trustees of the James L. Andrews and Katherine A. Andrews Family Trust Created September 7, 2000, for continued use and maintenance of an existing boat dock and access ramp, and the use and maintenance of an existing cantilevered deck. The current lessees are natural persons who own the upland property adjacent to the lease premises.

CALENDAR ITEM NO. C56 (CONT'D)

2. 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 has 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:
 1. 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
 2. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

This lease meets the statutory requirements for an exception to the recently-enacted changes to section 6503.5 of the Public Resources Code for the remaining term of the lease because the lease was in effect on July 1, 2011. Therefore, the only facility subject to a rental consideration is the deck which cantilevers beyond the bulkhead and into State property.

3. The staff recommends that the Commission find that the subject revision of rent 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.

EXHIBIT:

- A. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject revision of rent 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

CALENDAR ITEM NO. **C56** (CONT'D)

by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

Approve the revision of rent for Lease No. PRC 3576.1 from \$788 per year to \$945 per year, effective July 1, 2012.

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.

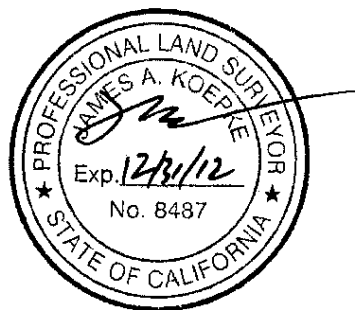
ALSO TOGETHER WITH a 10 foot use area.

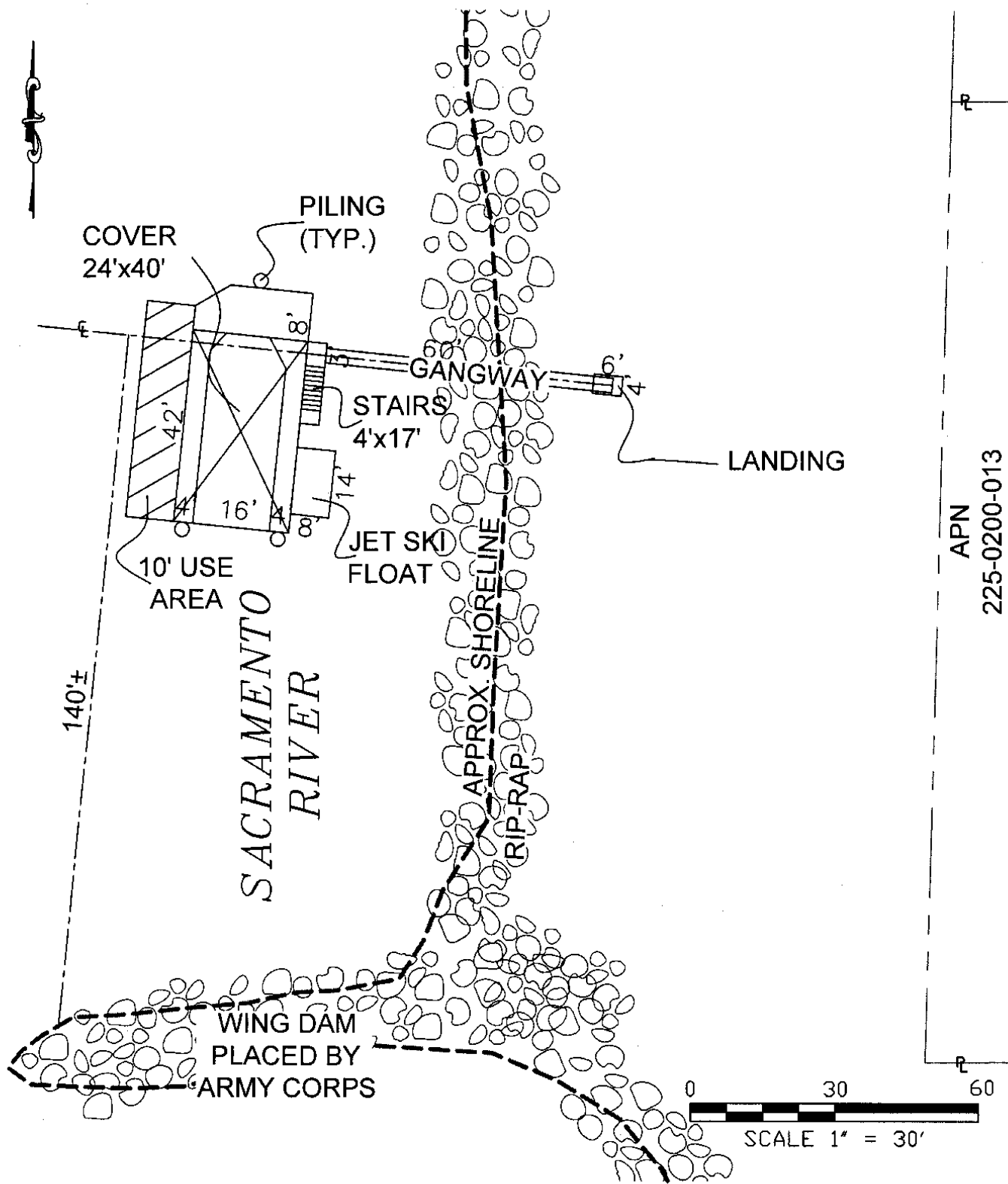
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of the historic Sacramento River.

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

Page 2 of 2

MJF 2/27/12

LAND DESCRIPTION PLAT
PRC 5935.1, SCHOMBERG
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

