

**CALENDAR ITEM
C23**

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08/14/12
PRC 4164.1
C. Hudson

**RESCISSION OF APPROVAL AND ISSUANCE OF A NEW
GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE**

LESSEE:

Natalie A. Brown

APPLICANT:

Michael A. Di Grazia, as Trustee of the Michael A. Di Grazia Revocable Trust created on July 19, 2006

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 937 Piedmont Drive, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, two wood pilings, gangway, and bank protection.

LEASE TERM:

10 years, beginning August 14, 2012.

CONSIDERATION:

Uncovered Floating Boat Dock, Two Wood Pilings, and Gangway: \$141 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. Applicant owns the upland adjoining the lease premises.

CALENDAR ITEM NO. **C23** (CONT'D)

2. On June 28, 2007, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Natalie A. Brown for the continued use and maintenance of an existing uncovered floating boat dock, two wood pilings, gangway, and bank protection. Shortly after Commission authorization, Natalie A. Brown transferred ownership in the upland property to Michael A. Di Grazia, as Trustee of the Michael A. Di Grazia Revocable Trust created on July 19, 2006 and did not execute the lease. Staff is now requesting that the June 28, 2007 authorization issuing a lease to Natalie A. Brown be rescinded and that a new General Lease – Recreational and Protective Structure Use be issued to the Applicant.

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.

Because the application and application fees were submitted after March 21, 2011, the lease does not meet the statutory requirements for an exception to recently enacted changes to Section 6503.5 of the Public Resources Code.

4. 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.

5. **Rescind Approval of a Lease:** The staff recommends that the Commission find that the subject rescission of approval 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).

CALENDAR ITEM NO. **C23** (CONT'D)

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

6. **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.

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:

Rescind Approval of a Lease: Find that the activity is exempt from 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).

CALENDAR ITEM NO. **C23** (CONT'D)

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. Rescind the Commission's June 28, 2007 authorization of Lease No. PRC 4164.9, a General Lease – Recreational and Protective Structure Use to Natalie A. Brown.

2. Authorize issuance of Lease No., PRC 4164.1, a General Lease – Recreational and Protective Structure Use to Michael A. Di Grazia, as Trustee of the Michael A. Di Grazia Revocable Trust created on July 19, 2006, beginning August 14, 2012, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock, two wood pilings, gangway, 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 existing uncovered floating boat dock, two wood pilings, and gangway: annual rent in the amount of \$141, 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 4164.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the original bed of the Sacramento River, lying adjacent to New Helvetia Rancho, in the County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, and gangway adjacent to Lot 8 as described in that Grant Deed recorded July 8, 2011 in Book 20110708 at Page 0321 in Official Records of said County.

TOGETHER WITH a ten foot use area.

ALSO TOGETHER with all land underlying existing bank protection lying adjacent to said Lot.

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 March 7, 2012 by the California State Lands Commission Boundary Unit.



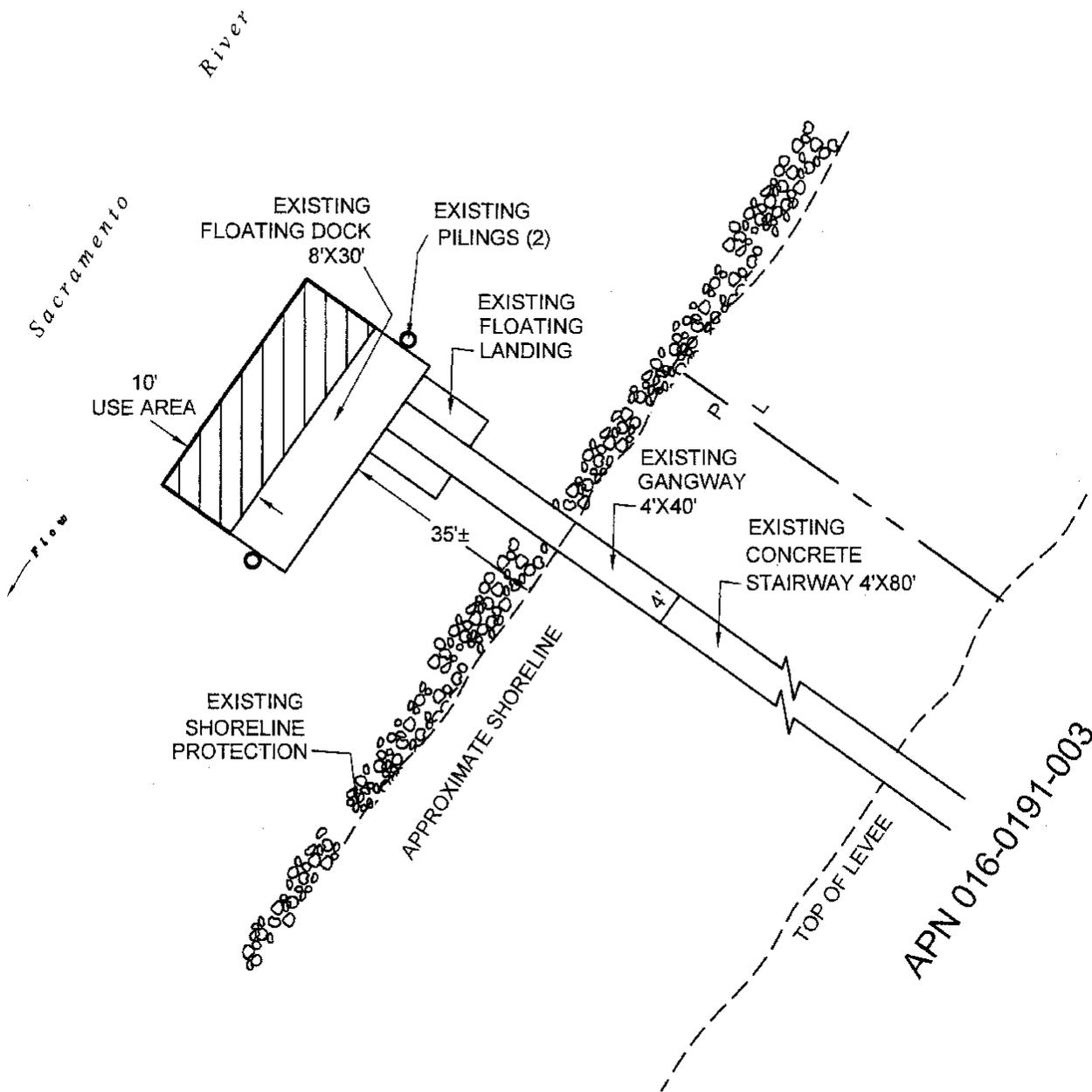


EXHIBIT A

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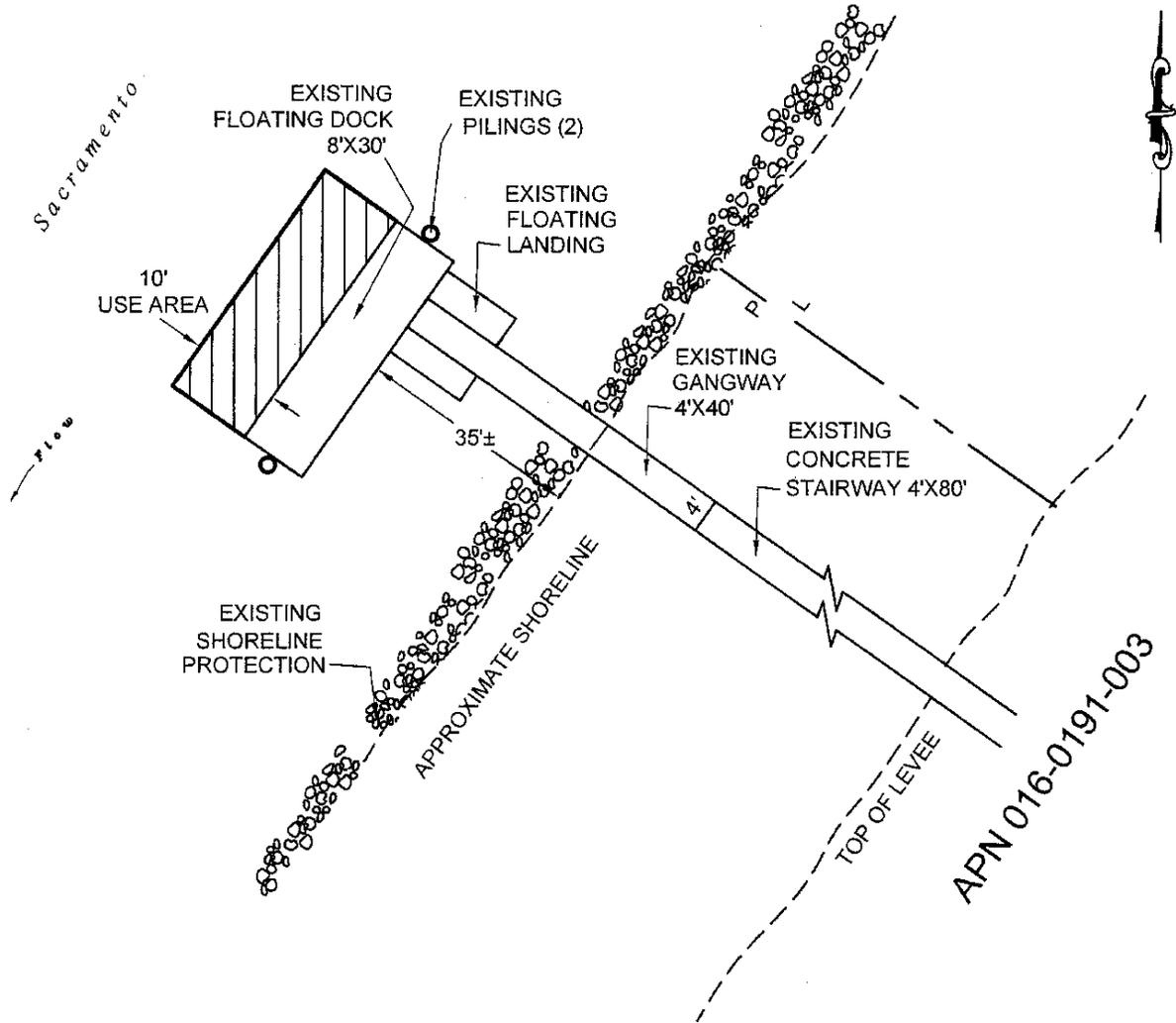
LAND DESCRIPTION PLAT
 PRC 4164.1, DI GRAZIA TRUSTEE
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



937 PIEDMONT DR. SACRAMENTO

NO SCALE

LOCATION

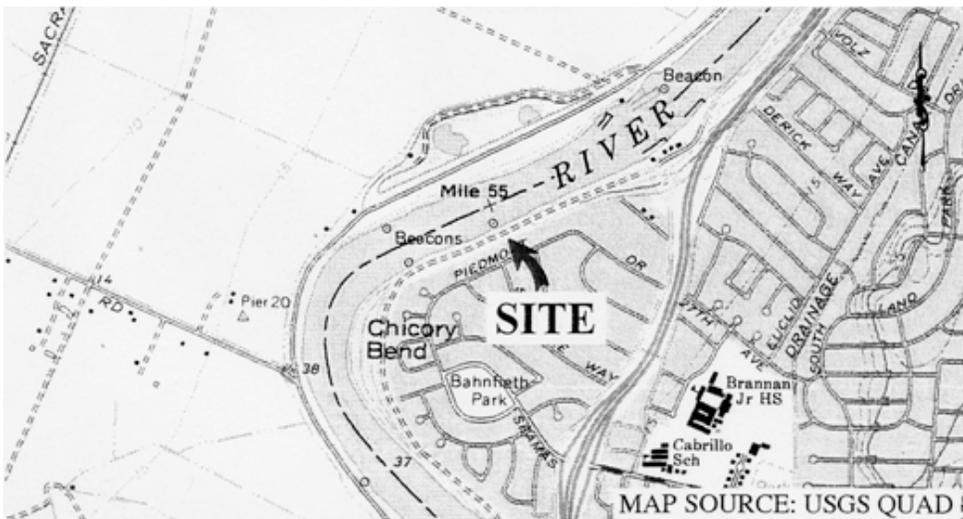


Exhibit B

PRC 4164.1
 DI GRAZIA TRUSTEE
 APN 016-0191-003
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURE USE
 SACRAMENTO COUNTY



MJJ 03/08/12

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.