

**CALENDAR ITEM
C32**

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09/20/13
PRC 6362.1
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GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Christopher Lunardi and Joanne Lunardi; Tab Stiles and Charlene Stiles as Trustees of the Tab and Charlene Stiles Family Trust, under trust dated October 15, 2007; Reginald G. Boone, Jr. and Lei-Wey Sun; and Robert M. Frey and Malia M. Frey

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Shag Slough, adjacent to Solano County Assessor's Parcel Number (APN) 0042-210-060, and in Cache Slough, adjacent to APN 0042-160-160, near the city of Rio Vista, Solano County.

AUTHORIZED USE:

Continued use and maintenance of four recreational dock facilities in Shag Slough and four boat sheds in Cache Slough previously authorized by the Commission and an existing portion of a residence and attached deck in Shag Slough not previously authorized by the Commission.

LEASE TERM:

10 years, beginning September 20, 2013.

CONSIDERATION:

\$1,354 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in the amount of no less than \$1,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises on Shag Slough and have the right to use the upland at Cache Slough.

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2. On December 16, 1982, the Commission authorized a 20-year General Lease – Commercial Use to A.P. Berding, Douglas E. Safreno, Pete Lunardi, Emil Vallerga, and Christopher Lunardi. That lease expired on October 31, 2002. Since the authorization of the previous lease, ownership to the upland has changed many times. The Applicants are now applying for a General Lease – Recreational Use.
3. In 1993, the prior Lessees stopped paying rent with the consent of Commission staff and requested a rent free lease under section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties. From 1993 to 2012 the Lessee, followed by multiple subsequent owners of the upland, and Commission staff disputed the owners' ability to qualify for a rent-free lease. On October 8, 2011, Chapter 585, Statutes of 2011 became law and effective January 1, 2012 section 6503.5 of the Public Resources Code was repealed and replaced with a new section 6503.5 which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state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." This change in law allowed the current owners and Commission staff to move forward with negotiations for a new lease. Because of the disputed nature of the State's claim and the subsequent change in law prohibiting any future rent-free leases, staff recommends the acceptance of \$1,500 already received as full payment of all back rent, penalty, and interest for the period of November 1, 1993 through September 19, 2013.
4. During the application process, staff became aware that a portion of an existing residence and attached deck encroached on to State land for many years. This encroachment was not previously authorized by the Commission, and staff is now recommending this area be included in the lease premises.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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.

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6. 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:

1. Authorize acceptance of back rent, penalty, and interest in the amount of \$1,500 for the period of November 1, 1993 through September 19, 2012.
2. Authorize issuance of a General Lease – Recreational Use to Christopher Lunardi and Joanne Lunardi; Tab Stiles and Charlene Stiles as Trustees of the Tab and Charlene Stiles Family Trust, under trust dated October 15, 2007; Reginald G. Boone, Jr. and Lei-Wey Sun; and Robert M. Frey and Malia M. Frey, beginning September 20, 2013, for a term of 10 years, for the continued use and maintenance of four recreational dock facilities in Shag Slough and four boat sheds in Cache Slough previously authorized by the Commission and an existing portion of a residence and attached deck in Shag Slough not previously authorized by the Commission as 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; annual rent in the amount of \$1,354 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6362.1

LAND DESCRIPTION

Two parcels of tide and submerged land situate in the beds of the Cache Slough and the Shag Slough, lying adjacent to Swamp and Overflowed Lands Survey No. 81 and Swamp and Overflowed Lands Survey No. 404, located in the County of Solano, State of California, and being more particularly described as follows:

PARCEL 1 – CACHE SLOUGH

All those lands underlying existing boat sheds and ramps in the bed of the Cache Slough lying adjacent to Parcel Two as described in that certain Grant Deed recorded July 22, 2011 as Document # 201100063779, Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark on the westerly bank of the Cache Slough.

Parcel 2 – SHAG SLOUGH

All those lands underlying existing dock facilities and appurtenances in the bed of the Shag Slough lying adjacent to Parcel One as described in that certain Grant Deed recorded July 22, 2011 as Document # 201100063779, Official Records of said County.

TOGETHER WITH ten foot impact areas as shown on accompanying plat.

EXCEPTING THEREFROM any portion lying landward of the low water mark on the westerly bank of the Shag Slough.

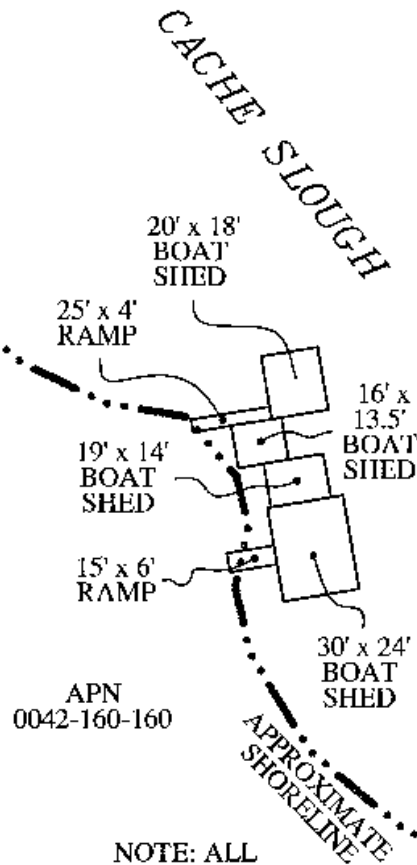
Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 07/22/2013 by the California State Lands Commission Boundary Unit.

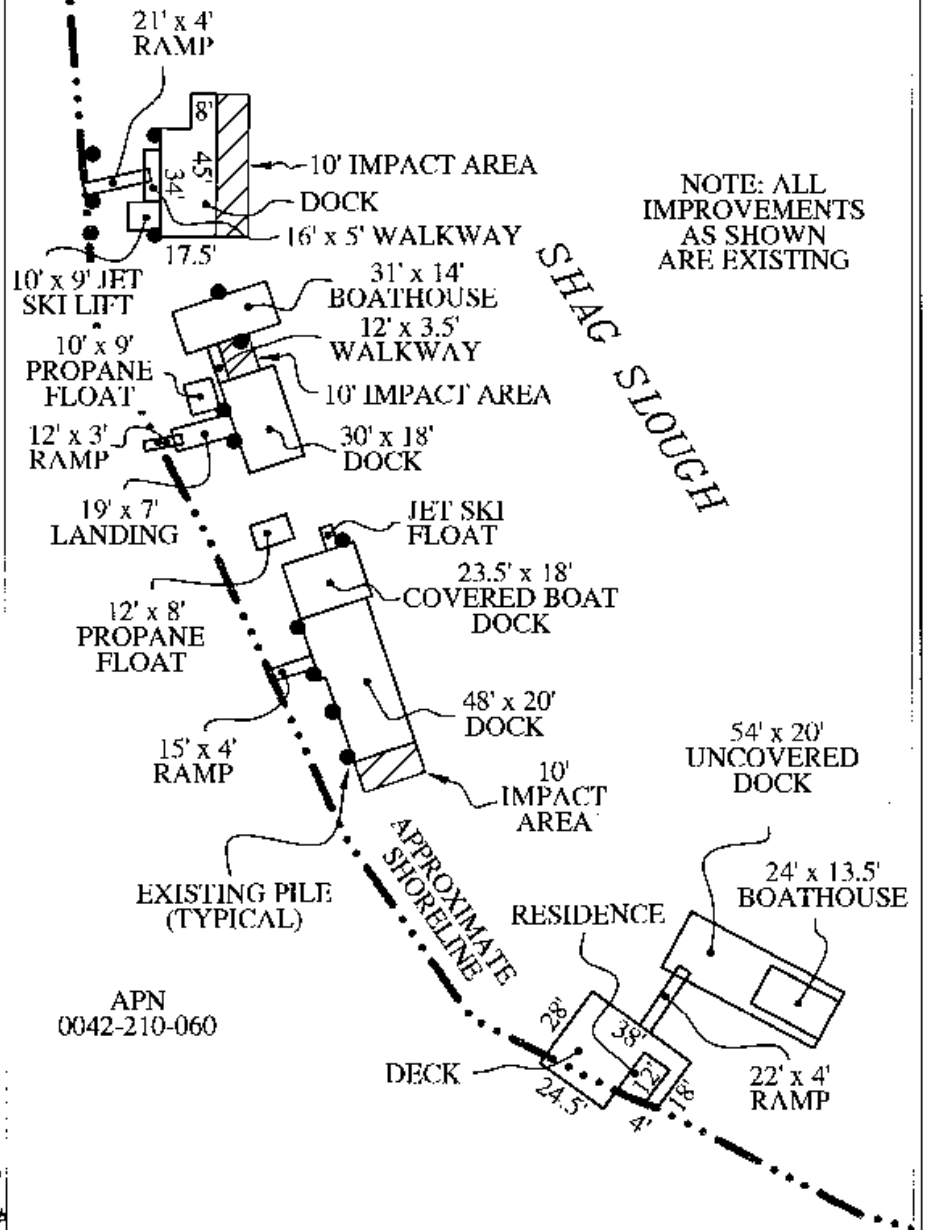


PARCEL 1



NOTE: ALL IMPROVEMENTS AS SHOWN ARE EXISTING

PARCEL 2



NOTE: ALL IMPROVEMENTS AS SHOWN ARE EXISTING

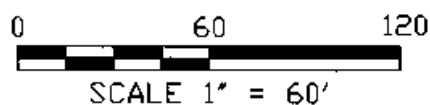


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 6362.1 FRENCH ISLAND
SOLANO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



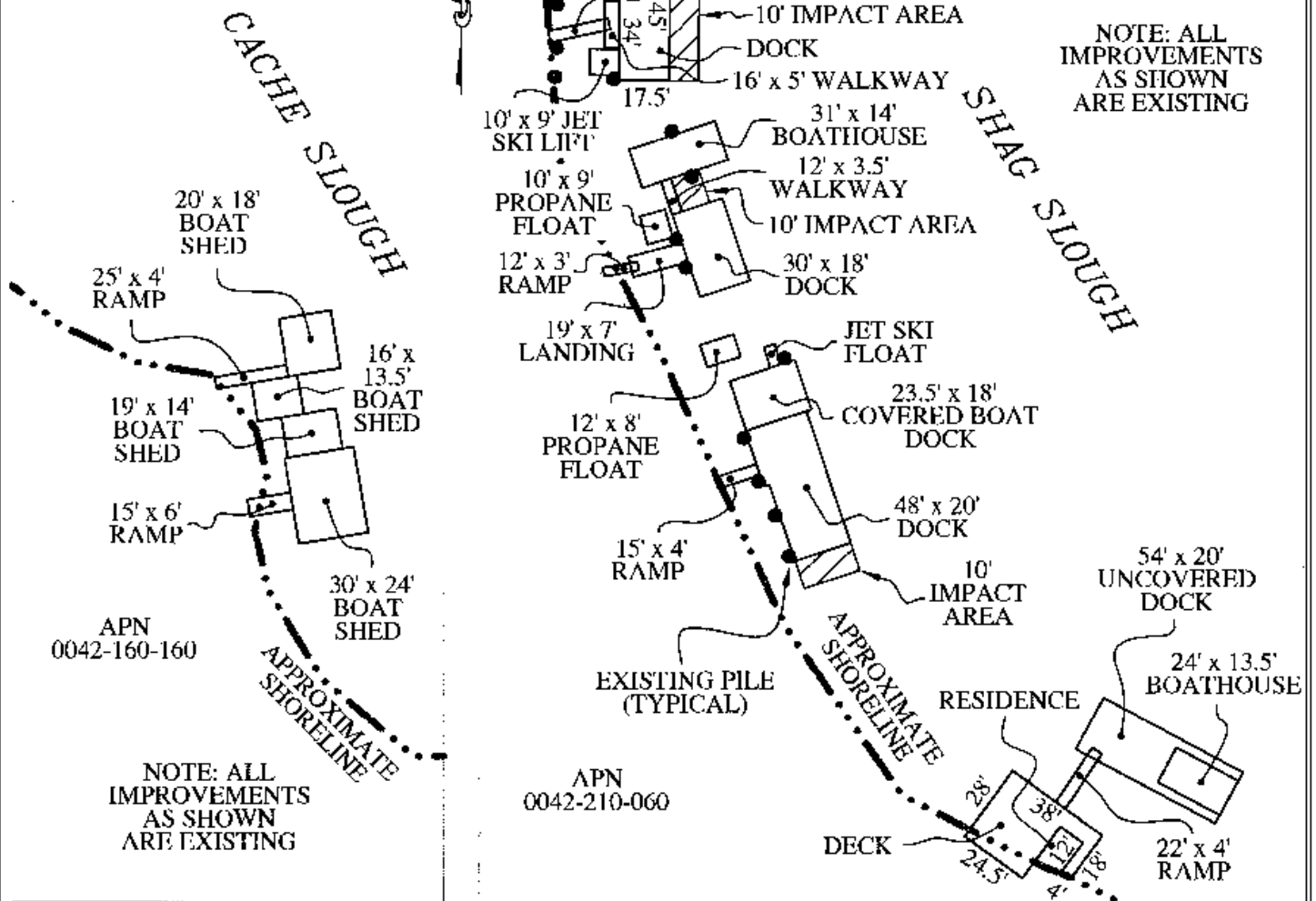
NO SCALE

SITE

PARCEL 1

PARCEL 2

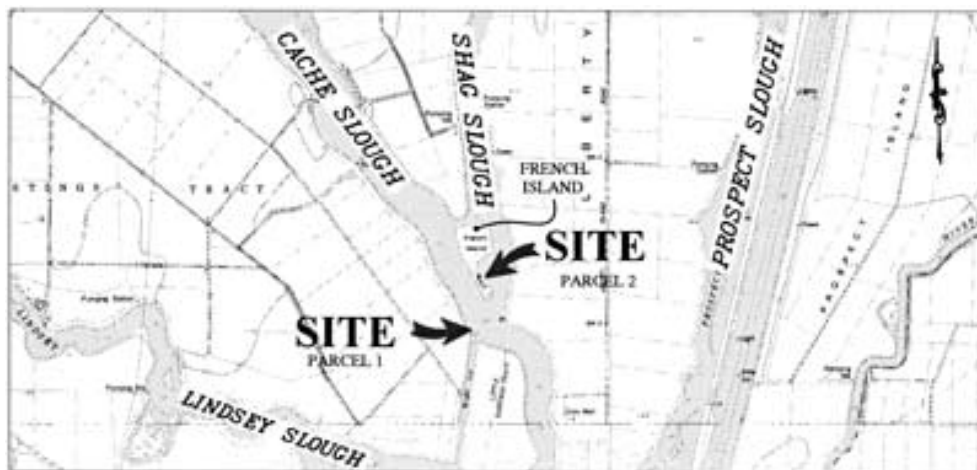
NOTE: ALL
IMPROVEMENTS
AS SHOWN
ARE EXISTING



FRENCH ISLAND

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 6362.1

STILES, BOONE,
FREY, & LUNARDI
APNs 0042-210-060 &
0042-160-160
GENERAL LEASE -
RECREATIONAL USE
SOLANO COUNTY



JWP 09/03/13