

**CALENDAR ITEM
C27**

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S 3

06/29/15
PRC 6745.1
M. Schroeder

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

APPLICANT:

James Vogt

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Napa River, adjacent to 1230 Milton Road, city of Napa, Napa County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered single-berth floating boat dock, landing, gangway, walkway, and deck previously authorized by the Commission, and eight existing pilings and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 29, 2015.

CONSIDERATION:

Uncovered Single-Berth Floating Boat Dock, Landing, Gangway, Walkway, and Eight Pilings: No monetary consideration pursuant to Public Resources Code section 6503.5

Deck: \$149 per year, with an annual Consumer Price Index adjustment.

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 interests.

SPECIFIC LEASE PROVISIONS:

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

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

CALENDAR ITEM NO. **C27** (CONT'D)

2. On September 19, 2000, the Commission authorized a Recreational Pier Lease to James Vogt for two existing uncovered floating boat docks, landing, gangway, walkway, and deck. That lease expired on July 5, 2010. In the ensuing years, staff worked with the Lessee to bring the facilities back under lease. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use.

3. On October 8, 2011, Chapter 585, Statutes of 2011 became law, effective on 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 section 6503.5 of the Public Resources Code for the term of this lease. Therefore, only the deck is subject to rent.

4. The eight existing pilings and bank protection have existed for many years but were not previously authorized by the Commission. Staff recommends bringing these facilities under lease. The bank protection will mutually benefit both the public and the Applicant. The bank of the Napa River will have additional protection for the river channel from wave action provided at no cost to the public.

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).

CALENDAR ITEM NO. **C27** (CONT'D)

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

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:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to James Vogt beginning June 29, 2015, for a term of 10 years, for the continued use and maintenance of an existing uncovered single-berth floating boat dock, landing, gangway, walkway, and deck previously authorized by the Commission, and eight existing pilings and bank protection not previously authorized by the Commission, 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 single-berth floating boat dock, landing, gangway, walkway, and eight pilings: no monetary consideration pursuant to the exemptions within Public Resources Code section 6503.5; consideration for the deck: \$149 per year with an annual Consumer Price Index adjustment; consideration for the bank protection: the public use and

CALENDAR ITEM NO. **C27** (CONT'D)

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 interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6745.1

LAND DESCRIPTION

Four (4) parcels of tide and submerged land, situate in the bed of the Napa River lying adjacent to Swamp and Overflowed Land Survey 76 patented June 9, 1887, County of Napa, State of California, and more particularly described as follows:

PARCEL 1

All those lands underlying an existing uncovered floating boat dock, gangway, landing deck and five (5) pilings lying adjacent to those lands as described in Tract One of "Exhibit A" in that Grant Deed, recorded April 28, 2000 in Document No. 2000-0010497 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the of the Napa River.

PARCELS 2 thru 4

All those lands underlying three (3) unattached pilings lying adjacent to those lands as described in said deed.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 2/24/15 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



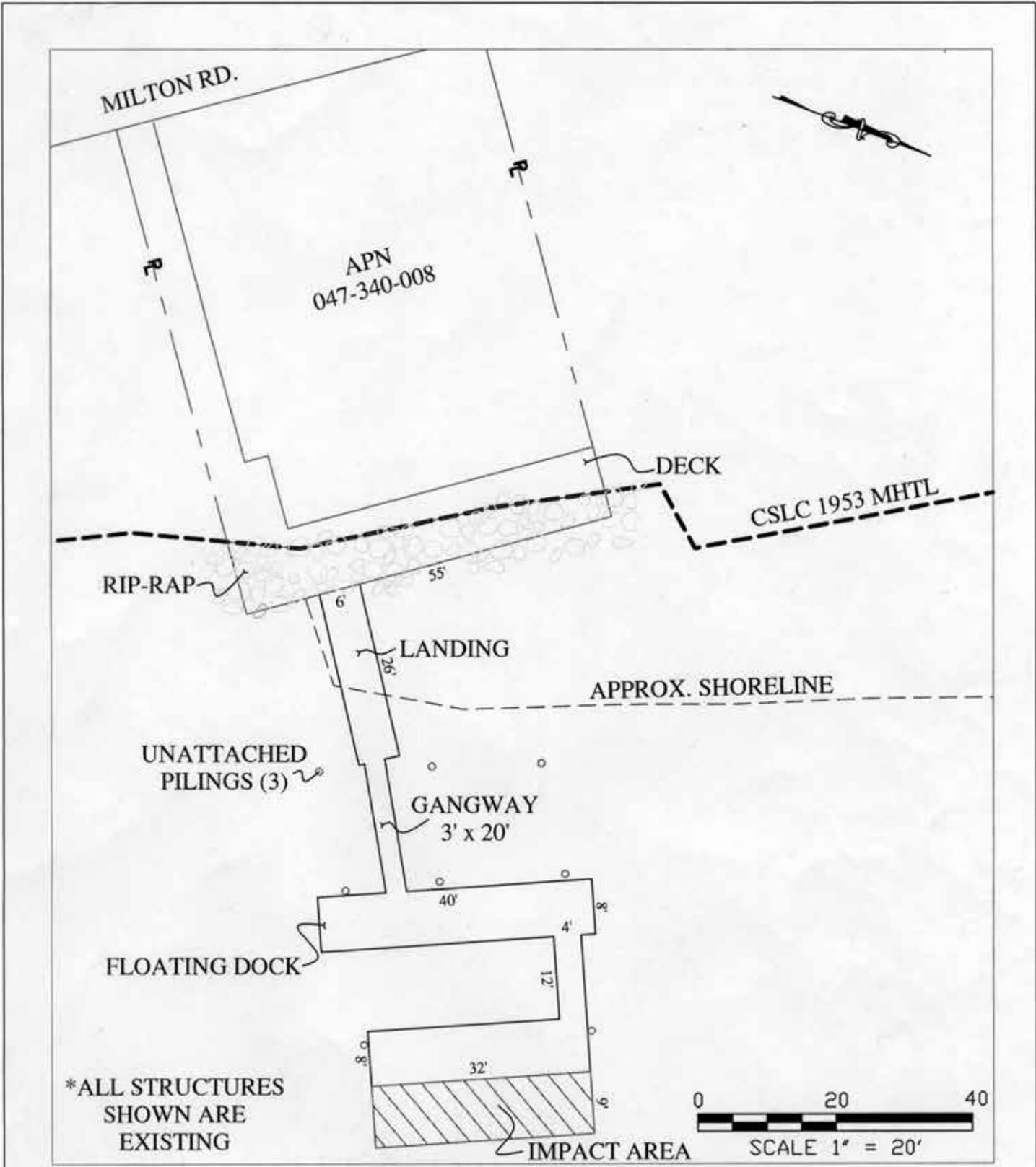


EXHIBIT A

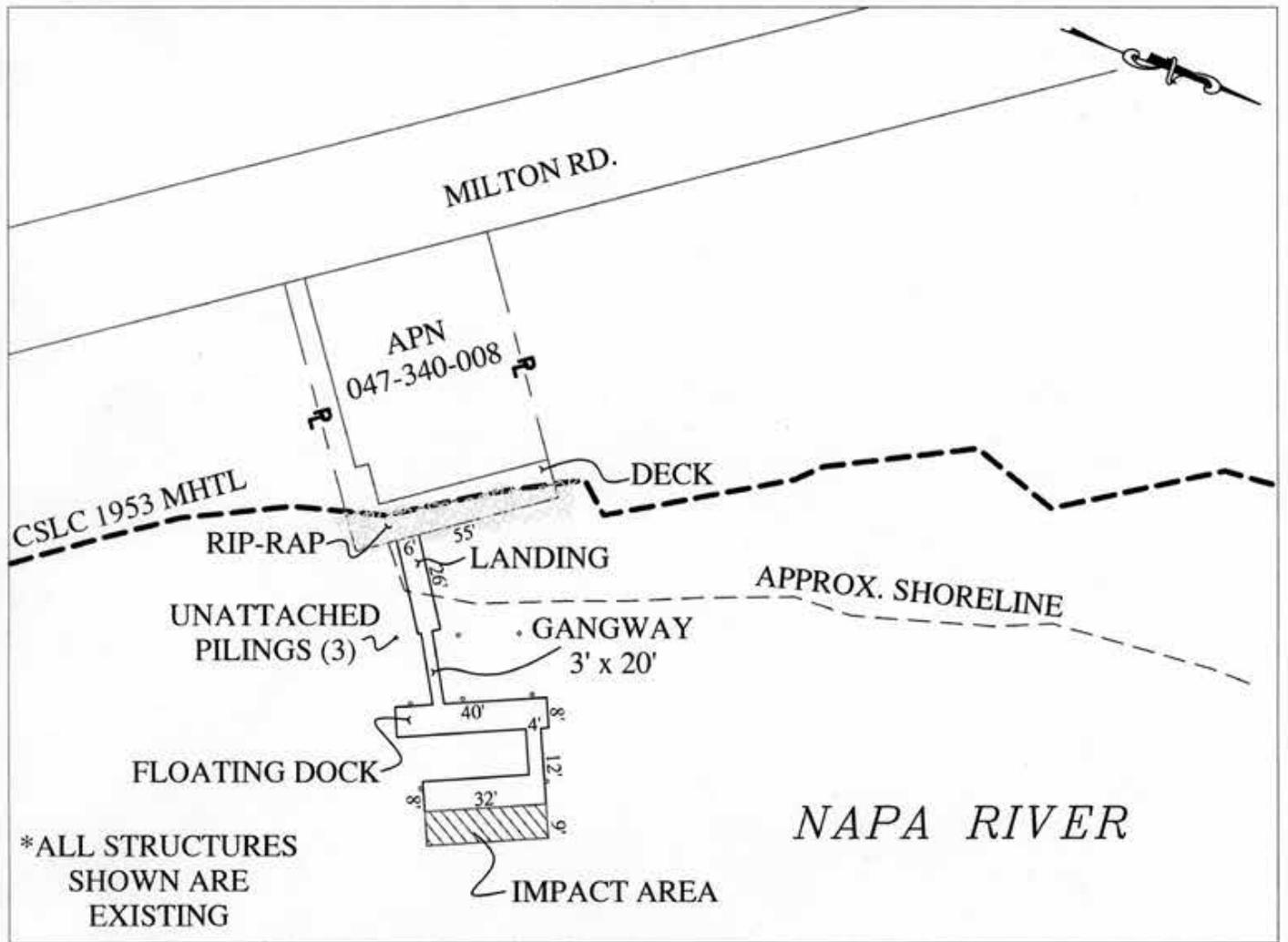
LAND DESCRIPTION PLAT
 PRC 6745.1 , VOGT
 NAPA COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



1230 Milton Road, Napa

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 6745.1
 VOGT
 APN 047-340-008
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 NAPA COUNTY



MJF 2/23/15