

**CALENDAR ITEM
C60**

A 11
S 3

02/09/16
PRC 4764.1
W. Hall

**TERMINATION AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Gerhard Wagner, Marilyn J. Wagner and Natalie Paine

APPLICANT:

Michael J. Loughrey, Trustee of the Loughrey Family Trust Dated January 3rd,
2007

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 17370 Grand Island
Road, near Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and gangway.

LEASE TERM:

10 years, beginning February 9, 2016.

CONSIDERATION:

\$125 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California
Code of Regulations, Title 2, section 2000, subdivision (b).

CALENDAR ITEM NO. **C60** (CONT'D)

Public Trust and State's Best Interests Analysis:

The subject facilities are for the docking and mooring of boats. Recreational boating is a water-dependent activity and is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Res. Code § 6503.5). The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, and a non-exclusive use provision.

The subject facilities have existed for many years at this location. The subject facilities do not significantly alter the land, do not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove all improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the pier and gangway will not substantially interfere with public trust needs at this location and at this time and for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On December 12, 2013, the Commission authorized a General Lease - Recreational Use to Gerhard Wagner, Marilyn J. Wagner and Natalie Paine. That lease will expire on December 1, 2023. On July 10, 2015, interest in the littoral parcel was transferred to Michael J. Loughrey, Trustee of the Loughrey Family Trust Dated January 3rd, 2007. The Applicant is now applying for a General Lease – Recreational Use.

CALENDAR ITEM NO. **C60** (CONT'D)

3. Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property without executing a quitclaim deed.
4. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
5. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

6. The staff recommends that the Commission find that the issuance of the lease 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 issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061

CALENDAR ITEM NO. **C60** (CONT'D)

as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

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 termination, effective February 8, 2016, of Lease No. PRC 4764.1, a General Lease – Recreational Use to Gerhard Wagner, Marilyn J. Wagner and Natalie Paine.
2. Authorize issuance of a General Lease – Recreational Use to Michael J. Loughrey, Trustee of the Loughrey Family Trust Dated January 3rd, 2007, beginning February 9, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier and gangway, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$125, with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

PRC 4764.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River on Long Island lying adjacent to Swamp and Overflowed Land survey 957, patented October 4, 1871, County of Sacramento, State of California, more particularly described as follows:

All those lands underlying an existing dock, and gangway lying adjacent to that parcel as described in Grant Deed recorded July 10, 2015, in Book 20150710, Page 0633 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion lying landward of the MHTL of the right bank of said river as per Sacramento Superior Court Case No. 78345 and shown on "Record of Survey of Compromise Title Settlement Agreement, Boundary Line Agreement No. 241 at Long Island, Vicinity of Isleton in Projected Section 27, T4N, R3E, MDM" and filed in Book 38 of Surveys at Page 40 Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 7, 2016 by the California State Lands Commission Boundary Unit.



APN 142-0140-010

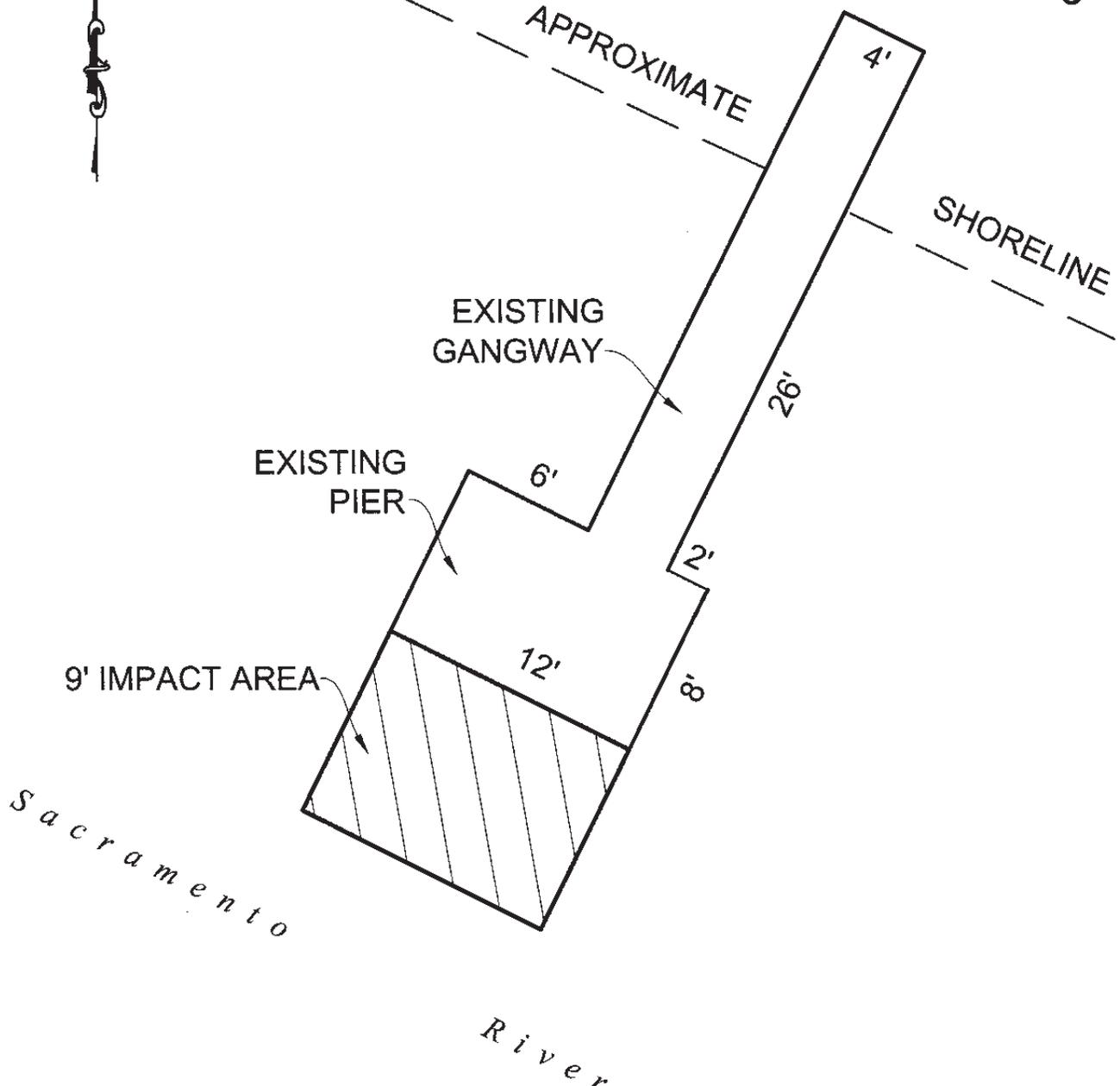


EXHIBIT A

Page 2 of 2

MJJ 1/7/16

LAND DESCRIPTION PLAT
PRC 4764.1, LOUGHREY
SACRAMENTO COUNTY

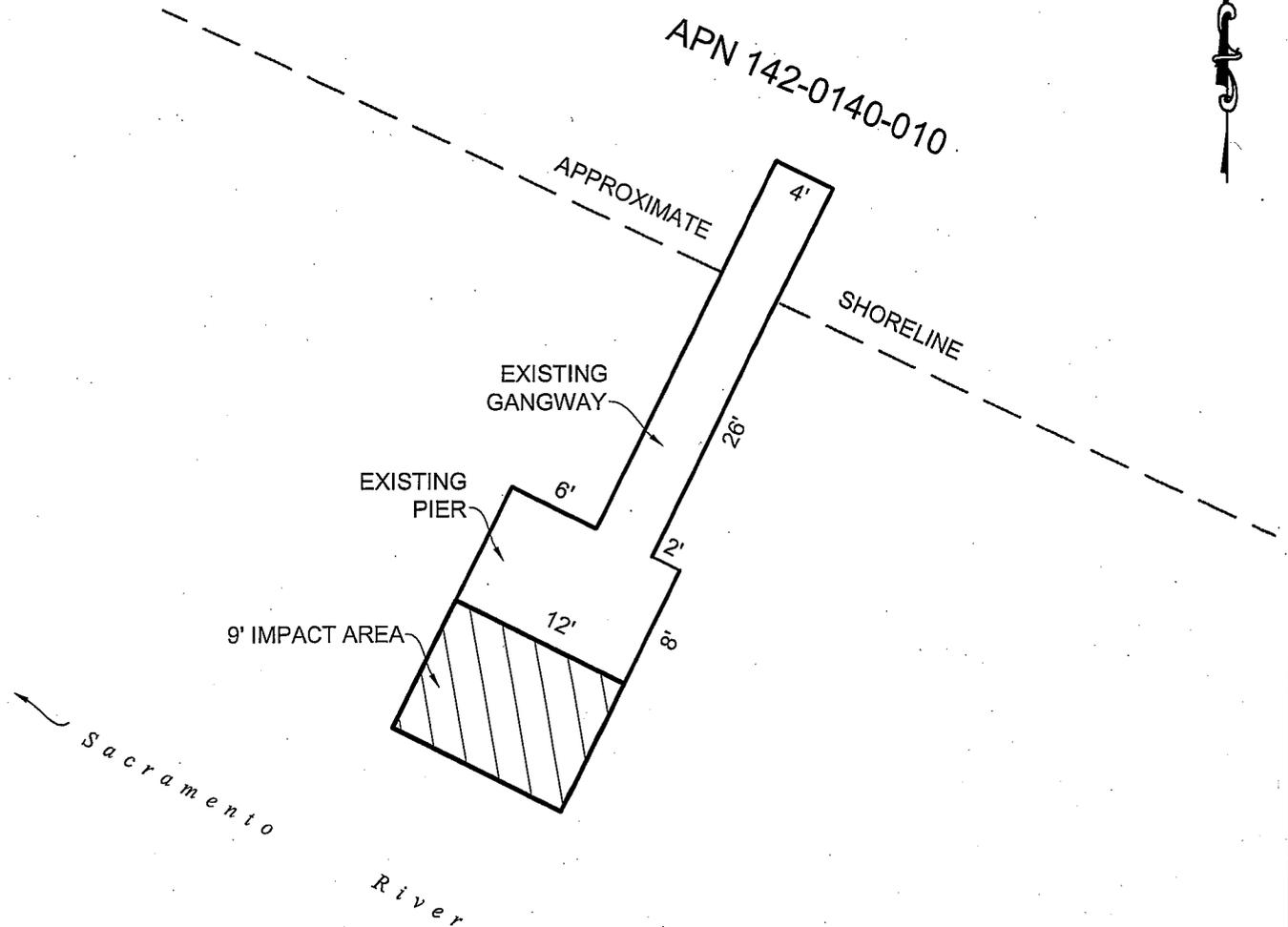
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 142-0140-010



17370 GRAND ISLAND ROAD, NEAR ISLETON

NO SCALE

LOCATION

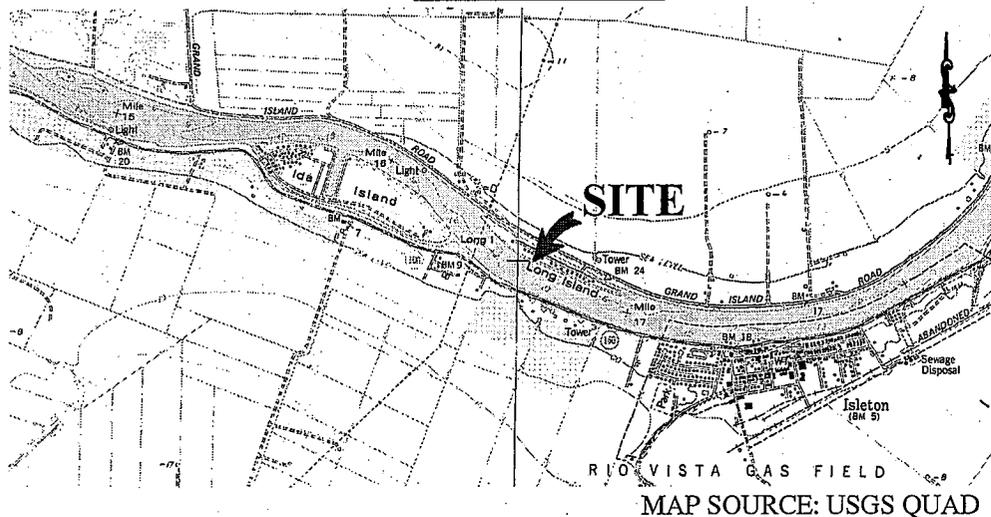


Exhibit B
 PRC 4764.1
 LOUGHREY
 APN 142-0140-010
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



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.