

**CALENDAR ITEM
C25**

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10/13/16
PRC 7016.1
J. Holt

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Darrell Ferreira and Mary Lynn Ferreira, as Co-Trustees and all Successor Trustees of the Darrell and Mary Lynn Ferreira Revocable Trust dated May 11, 2006

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 6901 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock, gangway, piling, dolphin, and bank protection.

LEASE TERM:

10 years, beginning November 1, 2016.

CONSIDERATION:

Boat dock, gangway, piling, and dolphin: \$161 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.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

CALENDAR ITEM NO. **C25** (CONT'D)

Public Trust and State's Best Interests Analysis:

On August 24, 2006, the Commission authorized a General Lease – Recreational and Protective Structure Use to Darrell Ferreira and Mary Lynn Ferreira, as Co-Trustees and all Successor Trustees of the Darrell and Mary Lynn Ferreira Revocable Trust dated May 11, 2006 ([Calendar Item C31, August 24, 2006](#)). That lease expires October 31, 2016. The Applicant is now applying for a new lease.

The subject lease contains a dock and appurtenant facilities used for the mooring of boats. Recreational boating is water-dependent 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. Resources Code, § 6503.5). The Applicant owns the upland adjoining the lease premises. The subject structures are privately owned and maintained.

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

The dock and appurtenant facilities have existed for many years at this location; the facilities do not significantly alter the land; the lease does 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 any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the dock and appurtenant facilities will not substantially interfere with Public Trust needs, at this location 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. Bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources of the river for recreational and navigational purposes by the public. 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.

CALENDAR ITEM NO. **C25** (CONT'D)

OTHER PERTINENT INFORMATION:

1. 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.
2. Staff recommends that the Commission find that this activity is except from the requirements of the California Environmental Quality Act (CEQA) as a categorical 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.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **C25** (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:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Darrell Ferreira and Mary Lynn Ferreira, as Co-Trustees and all Successor Trustees of the Darrell and Mary Lynn Ferreira Revocable Trust dated May 11, 2006; beginning November 1, 2016, for a term of 10 years, for the continued use and maintenance of an existing boat dock, gangway, piling, dolphin, 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 boat dock, gangway, piling, and dolphin: \$161 per year, with an annual Consumer Price Index adjustment; 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 interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7016.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 1067 patented November 30, 1874, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing floating boat dock, 2-pile dolphin, 1 piling and gangway lying adjacent to that parcel as described in that Grant Deed recorded May 11, 2006 in Document 200605112694 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said parcel.

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared August 17, 2016 by the California State Lands Commission Boundary Unit.





River

Sacramento

EXISTING
2-PILE DOLPHIN

PROTECTIVE
BANK STRUCTURE

9' IMPACT AREA

EXISTING
GANGWAY 4' X 60'

SHORELINE

EXISTING
BOAT DOCK
6' X 40'

EXISTING
PILING

APPROXIMATE

APN 201-0250-024

EXHIBIT A

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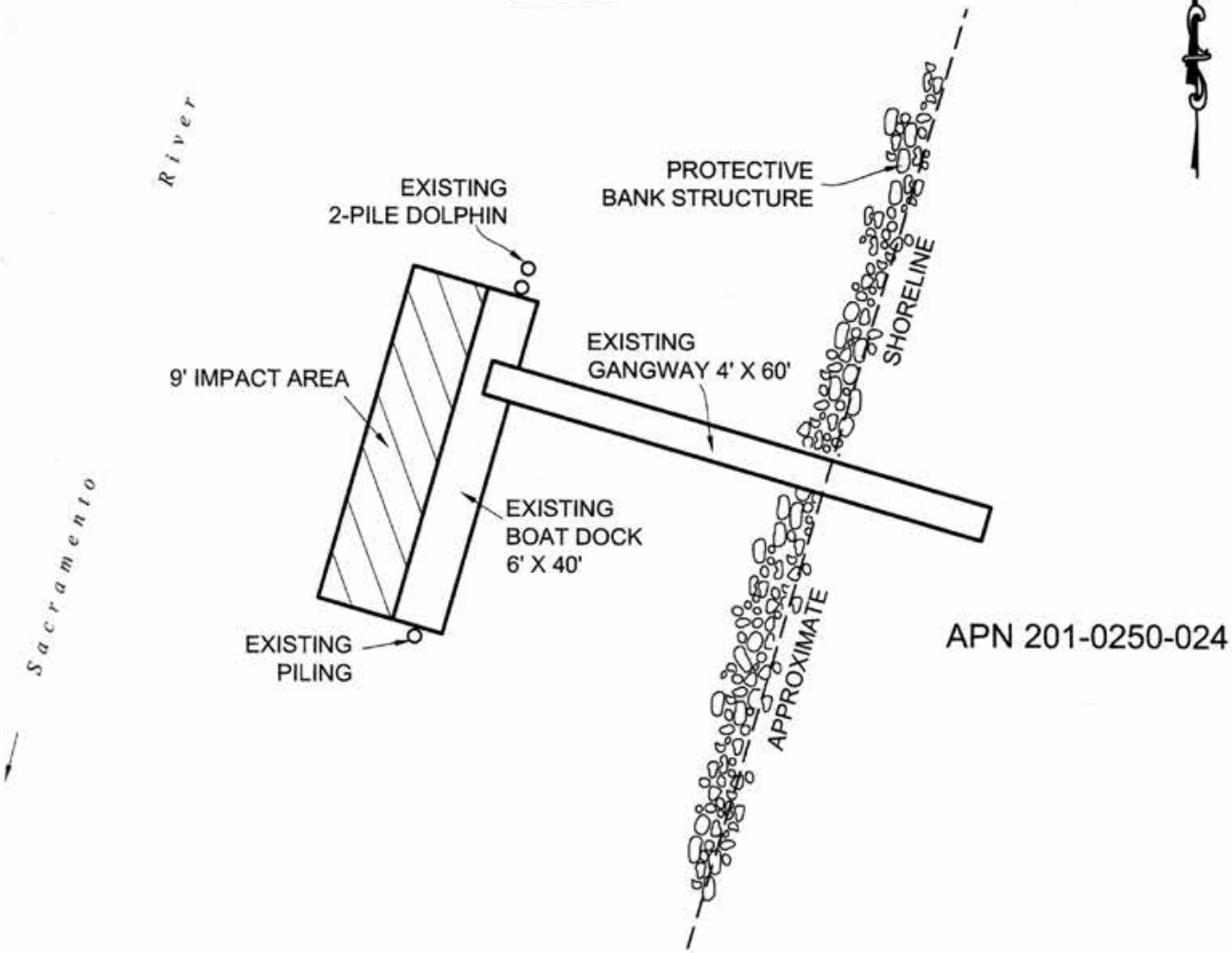
LAND DESCRIPTION PLAT
PRC 7016.1, FERREIRA TRUST
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



6901 GARDEN HWY., NEAR THE CITY OF SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7016.1
 FERREIRA TRUST
 APN 201-0250-024
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE 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.

MJJ 8/01/2016