

**CALENDAR ITEM
C35**

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10/13/16

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PRC 7014.1

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GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Kirk D. West and Gloria J. West

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Georgiana Slough, adjacent to 16807 Terminous Road, near Isleton, Sacramento County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning October 23, 2016.

CONSIDERATION:

Floating boat dock, walkway, gangway and pilings: \$216 per year, with an annual Consumer Price Index adjustment.

Bank protection: 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:

Insurance:

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. **C35** (CONT'D)

Public Trust and State's Best Interests Analysis:

On April 17, 2006, the Commission authorized a General Lease - Recreational and Protective Structure Use to Kirk D. West and Gloria J. West ([Calendar Item C43, April 17, 2006](#)). That lease will expire on October 22, 2016. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the existing improvements. The subject improvements are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The subject dock and appurtenant facilities are for the docking and 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 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, or 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. The bank protection will maintain and improve the integrity of the slough channel, which will help protect the Public Trust resources and values 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. **C35** (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 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.

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, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **C35** (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 Kirk D. West and Gloria J. West beginning October 23, 2016, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, walkway, gangway, pilings 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 floating boat dock, gangway, walkway and pilings: \$216 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 7014.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Georgiana Slough lying adjacent to, Swamp and Overflow Survey 943 patented April 14, 1873 Sacramento County, State of California, more particularly described as follows:

PARCEL 1 – DOCK

All those lands underlying an existing floating boat dock, walkway, gangway, and five (5) pilings, lying adjacent to that parcel as described in that Grant Deed recorded May 21, 1986, in Document 090866 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 right bank of the Georgiana Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

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





Georgiana

Slough

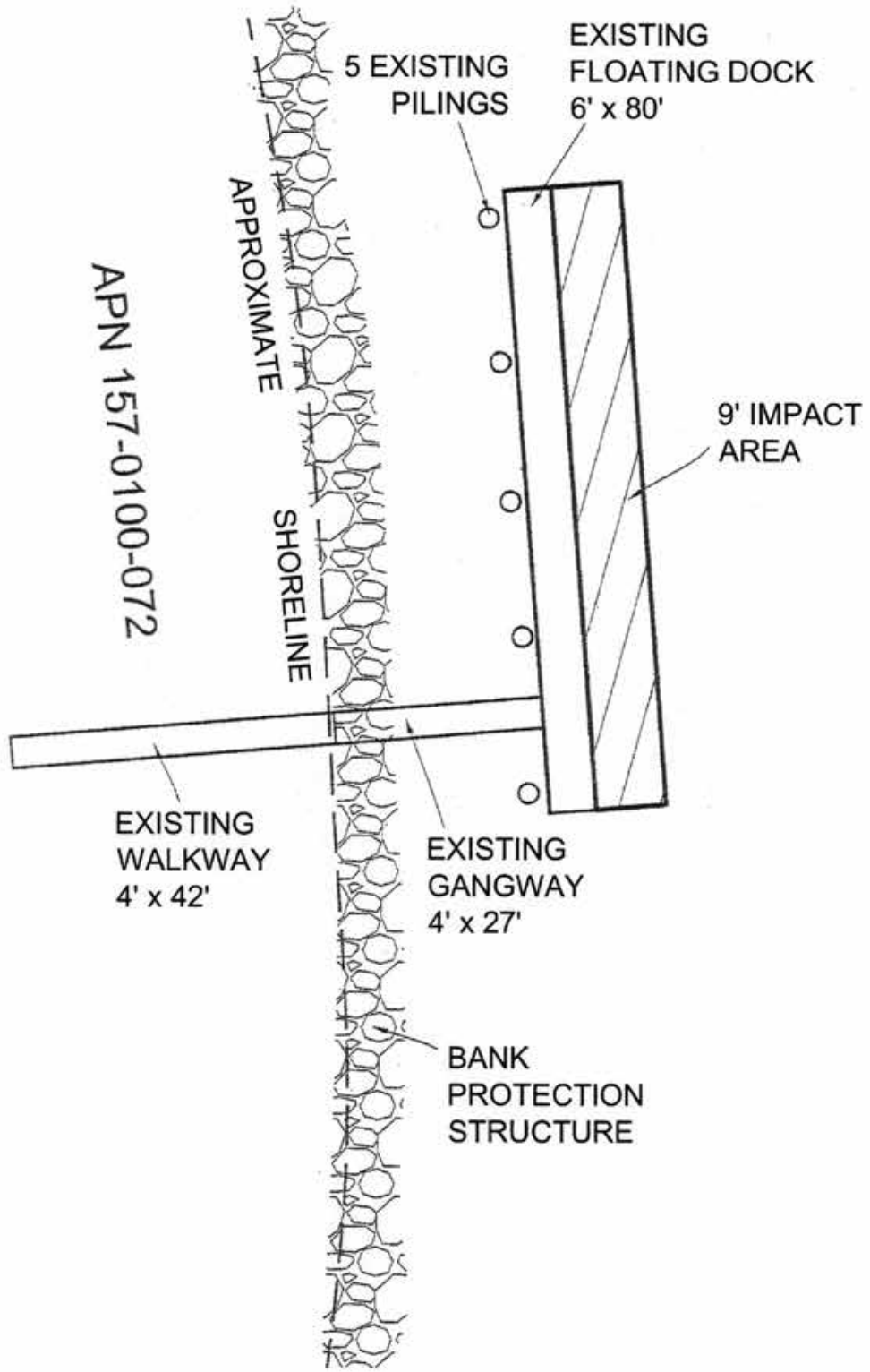


EXHIBIT A

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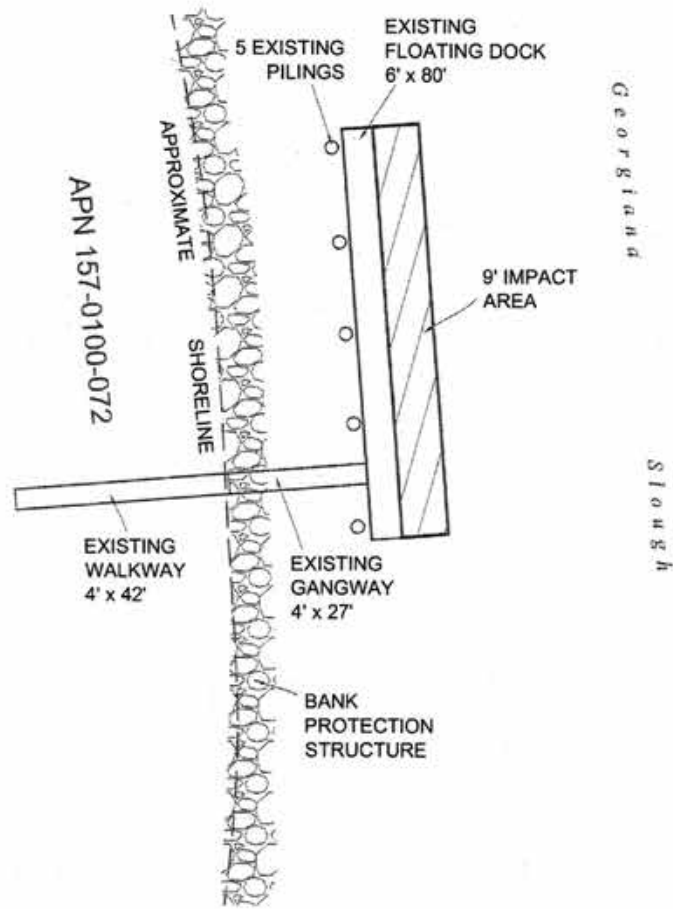
LAND DESCRIPTION PLAT
 PRC 7014.1, WEST
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



16807 TERMINOUS ROAD, NEAR ISLETON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7014.1

WEST

APN 157-0100-072

GENERAL LEASE -
RECREATIONAL &
PROTECTIVE STRUCTURE
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 9/07/16