

**CALENDAR ITEM  
C10**

A 5

03/29/12

S 6

WP 6862.1

R. Boggiano

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

**APPLICANT:**

Mark G. Timmerman

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Sacramento River, adjacent to 7011 Garden Highway, near the city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing uncovered floating boat dock, gangway, two pilings, and a two-pile dolphin previously authorized by the Commission, and existing bank protection not previously authorized by the Commission.

**LEASE TERM:**

10 years, beginning January 1, 2012.

**CONSIDERATION:**

**Uncovered floating boat dock, gangway, two pilings, and two-pile dolphin:**  
\$375 per year, with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease.

**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 interest.

**SPECIFIC LEASE PROVISIONS:**

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

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the upland adjoining the lease premises.
2. On January 30, 2002, the Commission authorized a 10-year Recreational Pier Lease to Mark G. Timmerman. The lease expired on

CALENDAR ITEM NO. **C10** (CONT'D)

December 31, 2011. The Applicant is now applying for a new General Lease – Recreational and Protective Structure Use.

3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective 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.

The Applicant does not qualify for an exception and the lease is subject to rent because the lease application was received after March 31, 2011.

4. The bank protection will mutually benefit both the public and the Applicant. The bank of the Sacramento River will have the additional protection from wave action provided at little cost to the public.
5. Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined that this activity 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.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 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.

CALENDAR ITEM NO. **C10** (CONT'D)

**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 Mark G. Timmerman, beginning January 1, 2012, for a term of 10 years, for the continued use and maintenance of an uncovered floating boat dock, gangway, two pilings, and two-pile dolphin previously authorized by the Commission, and the use and maintenance of 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 uncovered floating boat dock, gangway, two pilings, and two-pile dolphin: \$375 per year, with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease; 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 interest; and liability insurance in the amount of no less than \$1,000,000.

**EXHIBIT A**

**PRC 6862.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Survey 923 in the County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing dock, and walkway, adjacent to a parcel of land described in that Grant Deed filed September 3, 1999, recorded Document Number 19909030679 in Official Records of said County.

TOGETHER WITH all those lands underlying existing bank protection lying adjacent to said deed.

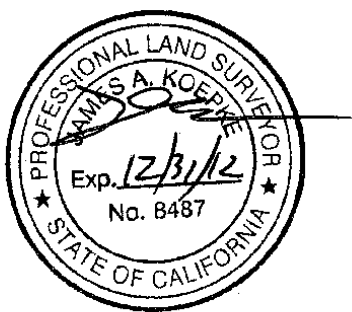
ALSO TOGETHER WITH a ten foot use area.

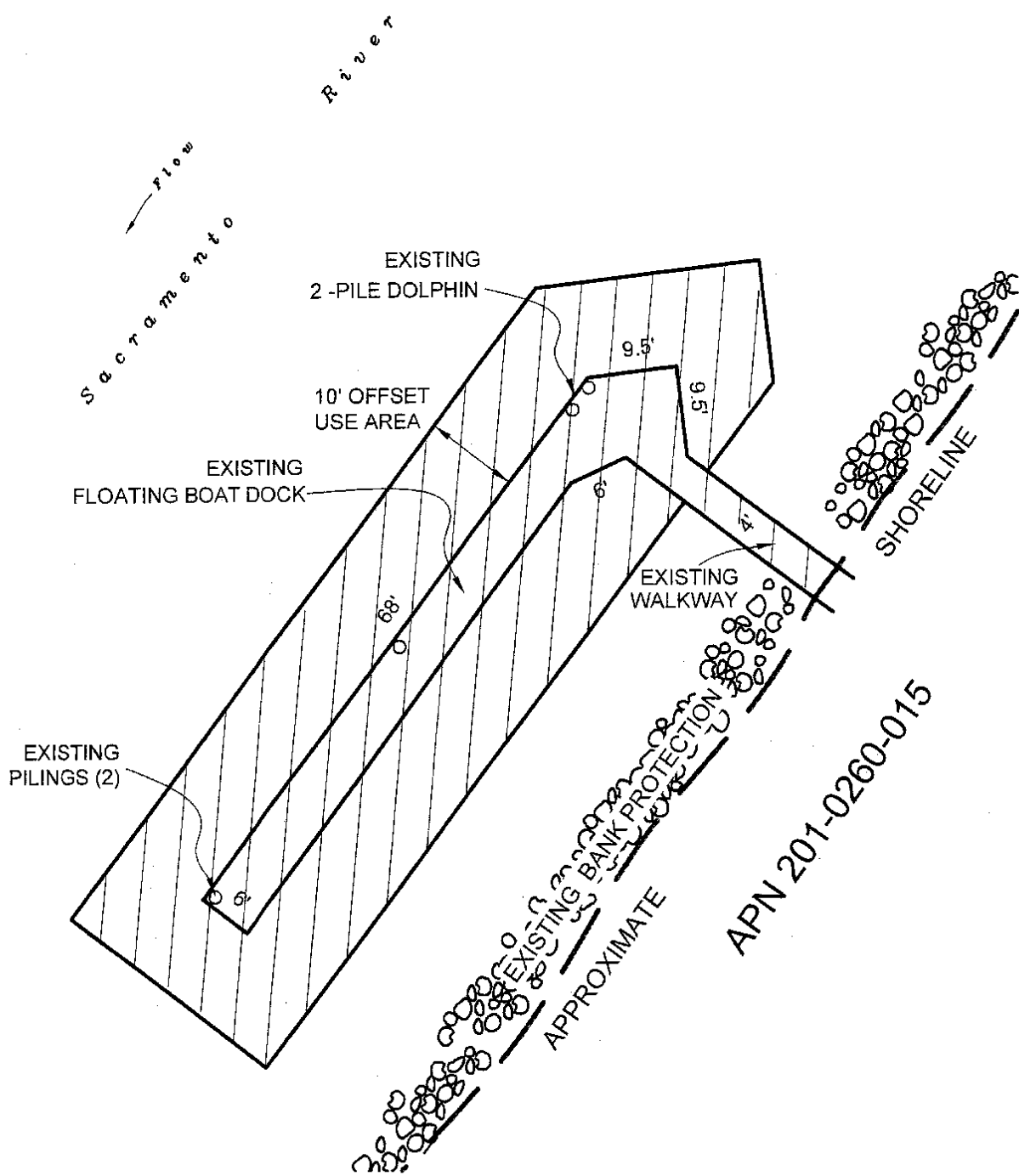
EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

Prepared January 19, 2012 by the California State Lands Commission Boundary Unit.





**EXHIBIT A**

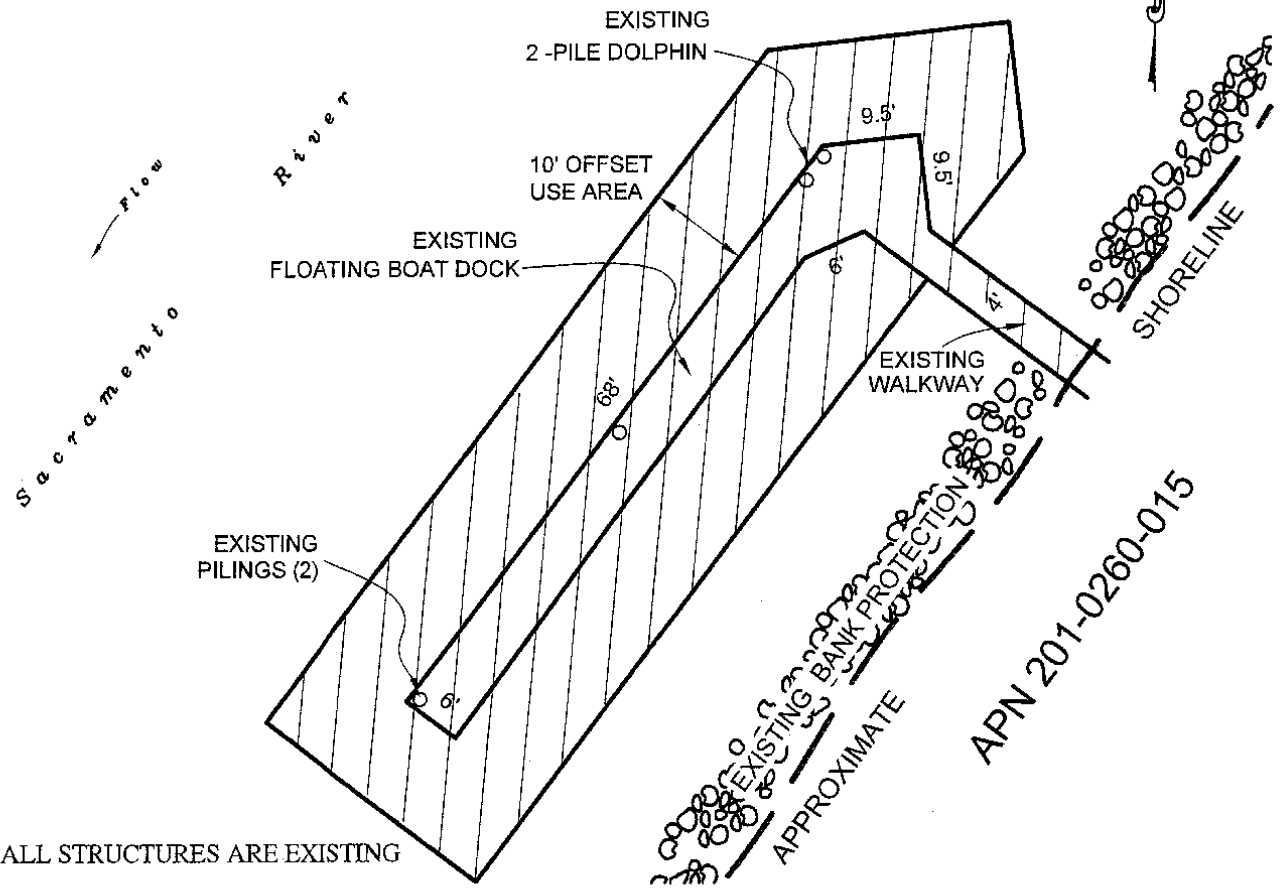
LAND DESCRIPTION PLAT  
 PRC 6862.1, TIMMERMAN  
 SACRAMENTO COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

### SITE



\*ALL STRUCTURES ARE EXISTING

7011 GARDEN HIGHWAY, SACRAMENTO RIVER

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### Exhibit B

PRC 6862.1  
 TIMMERMAN  
 APN 201-0260-015  
 GENERAL LEASE -  
 RECREATIONAL &  
 PROTECTIVE STRUCTURE USE  
 SACRAMENTO COUNTY



MJJ  
11/18/11

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.