

**CALENDAR ITEM  
C13**

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S 6

03/29/12  
WP 8078.1  
R. Boggiano

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANTS:**

Gregory E. Whitten and Carol C. Whitten

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

Sovereign land in the Sacramento River, adjacent to 6951 Garden Highway, near the city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing gangway previously authorized by the Commission and an uncovered floating boat dock with two bank-anchoring cables and two jet ski lifts not previously authorized by the Commission.

**LEASE TERM:**

10 years, beginning March 29, 2012.

**CONSIDERATION:**

\$442 per year, with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

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

**OTHER PERTINENT INFORMATION:**

1. The Applicants own the upland adjoining the lease premises.
2. On June 14, 1999, the Commission authorized a 10-year Recreational Pier Lease to Gregory E. Whitten and Carol C. Whitten for the construction of a 20-foot by 10-foot floating boat dock with gangway. The lease expired on June 13, 2009.
3. Staff has now become aware that in 2000, the Applicants constructed an unauthorized 40-foot by 12-foot floating boat dock with two bank-anchoring cables and installed two jet ski lifts measuring 16 feet by 12

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feet. The existing boat dock now measures 56 feet by 12 feet with a separate gangway. The Applicants have now obtained an After-the-Fact permit from the U.S. Army Corps of Engineers for the existing dock facility. The Applicants are now applying for a new General Lease – Recreational Use, and staff recommends approval of the existing uncovered floating boat dock with two bank-anchoring cables, gangway, and two jet ski lifts within the lease premises.

4. 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 application was received after March 31, 2011.

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 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

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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 Use to Gregory E. Whitten and Carol C. Whitten, beginning March 29, 2012, for a term of 10 years, for the continued use and maintenance of an existing gangway previously authorized by the Commission and an uncovered floating boat dock with two bank-anchoring cables and two jet ski lifts 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; annual rent in the amount of \$442, with the State reserving the right to fix a different rent periodically during the lease term; and liability insurance in the amount of no less than \$1,000,000.

**EXHIBIT A**

**PRC 8078.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 922 patented June 16, 1898, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, two jet ski lifts and a gangway lying adjacent to the left bank of said river and being adjacent to Lot 4, as described in Grand Deed, recorded November 2, 1998 in Document Number 199811021864 in Official Records of said County.

ALSO TOGETHER WITH a 10' use area.

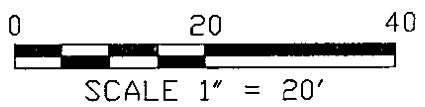
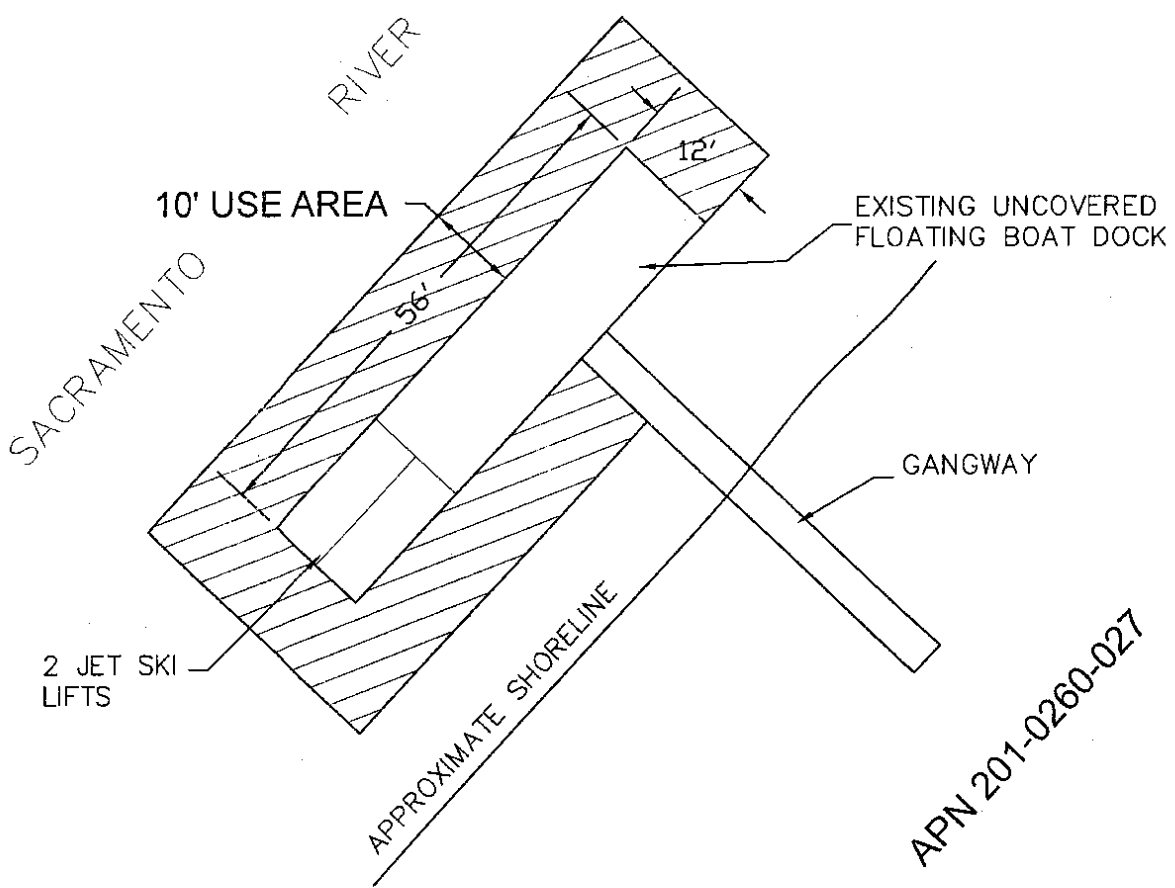
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 01/19/12 by the California State Lands Commission Boundary Unit





# EXHIBIT A

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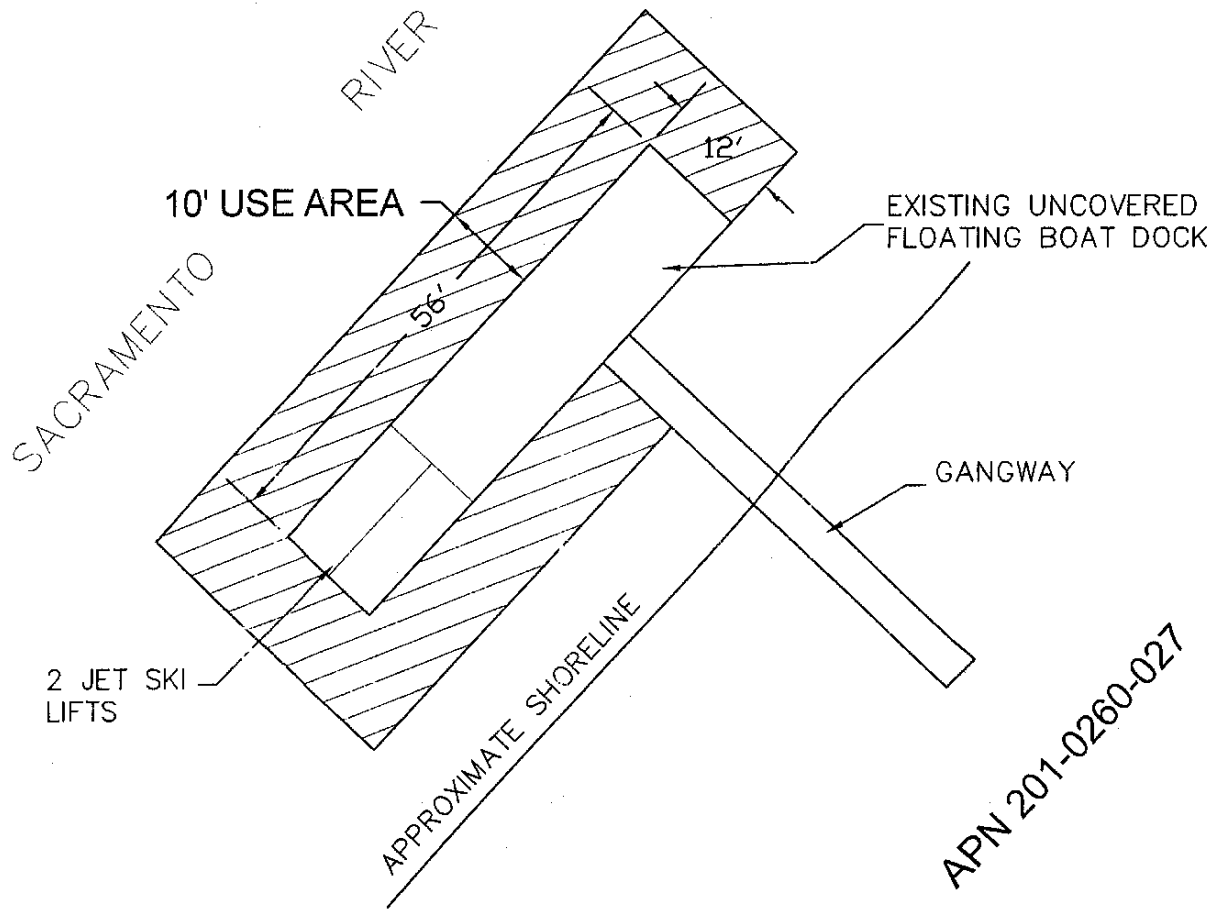
LAND DESCRIPTION PLAT  
PRC 8078.1, WHITTEN  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



6951 GARDEN HIGHWAY

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 8078.1

WHITTEN

APN 021-0260-027, 028

GENERAL LEASE-

RECREATIONAL USE

SACRAMENTO COUNTY



TS 01/19/12