

CALENDAR ITEM  
**C17**

A 2, 5  
S 4, 6

03/29/12  
WP 7197.1  
V. Caldwell

**TERMINATION OF A RECREATIONAL PIER LEASE  
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL  
AND PROTECTIVE STRUCTURE USE**

**LESSEE:**

Donald George Ferguson

**APPLICANTS:**

Paul D. Pion and Carla L. Pion, as Trustees of the Paul D. Pion and Carla L. Pion Revocable Trust dated November 8, 2006.

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

Sovereign land in the Sacramento River, adjacent to 4537 Garden Highway, near the city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing uncovered single-berth floating boat dock, ramp, two-pile dolphin and piling previously authorized by the Commission; and existing electric and water outlets, personal watercraft lift, portable double jet-ski dock with lifts, and bank protection not previously authorized by the Commission.

**LEASE TERM:**

10 years, beginning March 29, 2012.

**CONSIDERATION:**

**Uncovered single-berth floating boat dock, ramp, two-pile dolphin, piling, electric and water outlets, personal watercraft lift, and portable double jet-ski dock with lifts:** \$367 per year, with the State reserving the right to fix a different rent periodically during the lease term, 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.

CALENDAR ITEM NO. **C17** (CONT'D)

**SPECIFIC LEASE PROVISIONS:**

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

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. On December 8, 2005, the Commission authorized a 10-year Recreational Pier Lease to Donald George Ferguson. That lease expires on December 7, 2015. Subsequently, the upland property was foreclosed by Washington Mutual Bank, and, on October 1, 2009, Citibank, as trustee for Washington Mutual Bank, transferred the property to Paul D. Pion and Carla L. Pion, as Trustees of the Paul D. Pion and Carla L. Pion Revocable Trust dated November 8, 2006. The Applicants are requesting termination of the existing Recreational Pier Lease and are applying for a new General Lease – Recreational and Protective Structure Use.
3. The bank protection has existed at the site for several years but was not previously authorized by the Commission. The Applicants purchased the property with the electric and water outlets already constructed on the dock. The Applicants installed the personal watercraft lift and portable double jet-ski dock without prior authorization and are now requesting authorization from the Commission. Because they are consistent with the Public Trust, staff recommends approval of the existing bank protection, electric and water outlets, personal watercraft lift, and portable double jet-ski dock with 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 Applicants do not qualify for an exception and the lease is subject to rent because the application was received after March 31, 2011.

CALENDAR ITEM NO. **C17** (CONT'D)

5. The bank protection will mutually benefit both the public and the Applicants. The bank of the Sacramento River will have additional protection from wave action provided at little cost to the public.
  
6. **Termination of Existing Lease:** The staff recommends that the Commission find that the subject termination of existing lease does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).  
  
Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.
  
7. **Issuance of a New Lease:** 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 Title 14, California Code of Regulations, section 15300 and California Code of Regulations, Title 2, section 2905.
  
8. 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:**

**Termination of Existing Lease:** Find that the subject termination of existing lease is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

CALENDAR ITEM NO. **C17** (CONT'D)

**Issuance of a New Lease:** 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:**

1. Authorize termination, effective March 28, 2012, of Lease No. PRC 7197.9, a Recreational Pier Lease, issued to Donald George Ferguson.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Paul D. Pion and Carla L. Pion, as Trustees of the Paul D. Pion and Carla L. Pion Revocable Trust dated November 8, 2006, beginning March 29, 2012, for a term of 10 years, for the continued use and maintenance of an existing uncovered single-berth floating boat dock, ramp, two-pile dolphin, and piling previously authorized by the Commission, and existing electric and water outlets, personal watercraft lift, portable double jet-ski dock with lifts, and 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 single-berth floating boat dock, ramp, two-pile dolphin, piling, electric and water outlets, personal watercraft lift, and portable double jet-ski dock with lifts: \$367 per year, with the State reserving the right to fix a different rent periodically during the lease term, 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 rental 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 7197.1**

**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 415, patented July 11, 1865, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, gangway, piling and two-pile dolphin lying adjacent to the left bank of said river and being adjacent to that parcel described in Grand Deed, recorded October 1, 2009 in Document Number 91001-292 in Official Records of said County.

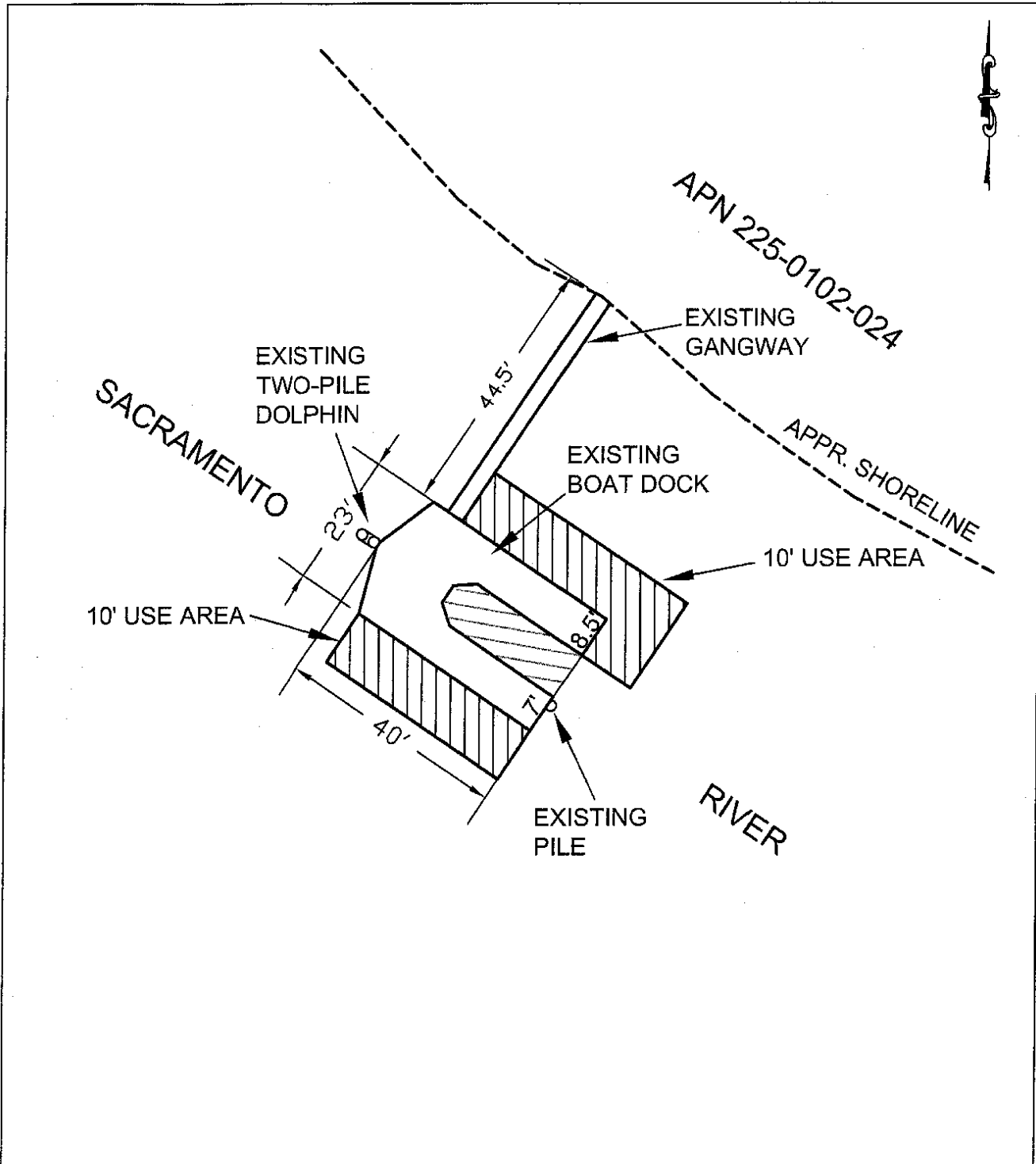
ALSO TOGETHER WITH a 10' use area.

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 02/03/12 by the California State Lands Commission Boundary Unit



# EXHIBIT A

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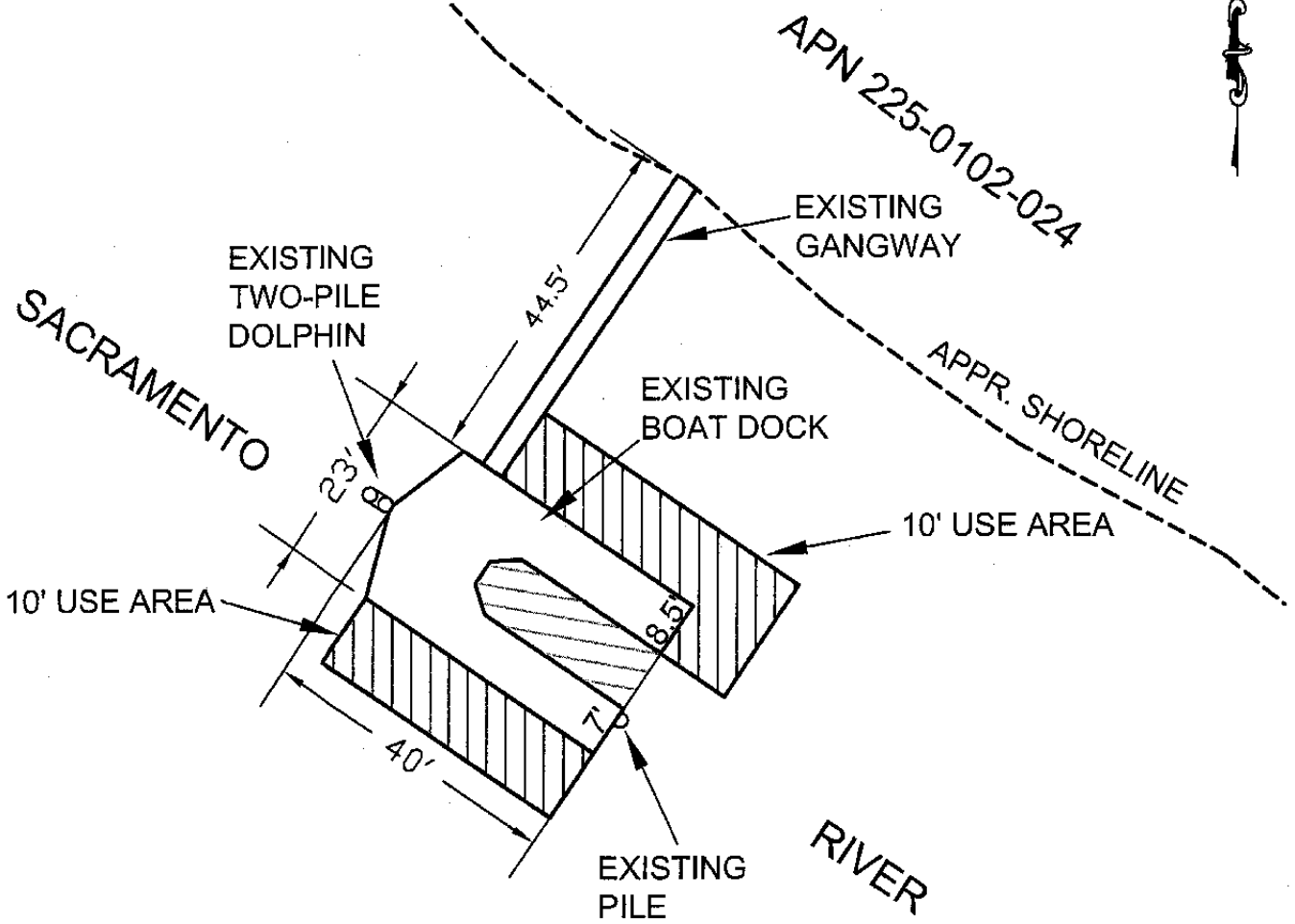
LAND DESCRIPTION PLAT  
 PRC 7197.1, PAUL D. PION &  
 CARLA L. PION-TRUSTEES  
 SACRAMENTO COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

### SITE



4537 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### **Exhibit B**

PRC 7197.1  
 PION TRUSTEES  
 APN 225-0102-024  
 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: