

**CALENDAR ITEM
C19**

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05/24/12
PRC 7473.9
N. Lavoie

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Philicia G. Lund and Mary K. Lund

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 17781 Grand Island Road, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of 15 existing pilings and construction of a covered floating boat shed, a uncovered floating boat dock, gangway, and debris diverter.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

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

Other:

Lessee shall construct all facilities by December 31, 2015. All in-water construction activities to be conducted between April 16 and October 15. Lessee agrees that, if the proposed facilities are not completed and in use by December 31, 2015, the lease will terminate and the existing improvements shall be removed and the Lease Premises restored to the condition prior to installation of the improvements.

OTHER PERTINENT INFORMATION:

1. The Applicants own the upland adjoining the lease premises.

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2. On December 12, 1990, the Commission authorized a Recreational Pier Permit for the construction of a dock, boat shed, and gangway to Philip G. and Mary K. Lund. That permit expired on December 11, 2000, without the authorized facilities having been constructed. On November 27, 2000, the Commission authorized a Recreational Pier Lease for the construction, use, and maintenance of a dock, boat shed, and gangway to the Lunds. That lease expired on December 11, 2010, with only 15 pilings having been constructed. On May 14, 2002, the Superior Court of California, County of Sacramento granted a petition changing Philip Gene Lund's name to Philicia Gene Lund. The Applicants are now applying for a new General Lease – Recreational Use.

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

Because the application was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease. Therefore, no rent will be charged.

4. The Applicants plan to construct the facilities by the end of 2013. The Applicants obtained all necessary permits in 1990 to construct the facility; however, staff verified that all permits and authorizations will need to be reinstated or reapplied for. The boat shed and dock facilitates will be constructed on the upland and floated into place. The only in-water work will be for the replacement of one piling that was broken by floating debris during a storm.

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5. **New Construction of One Piling, Debris Diverter, Gangway, Covered Floating Boat Shed, and an Uncovered Floating Boat Dock:** 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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

6. **Existing 14 Pilings:** 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.

7. This activity involves land 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.

APPROVALS OBTAINED:

County of Sacramento

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
Central Valley Flood Protection Board
National Oceanic and Atmospheric Administration, National Marine Fisheries Service
Central Valley Flood Protection Board
California Department of Fish and Game

EXHIBITS:

- A. Land Description
- B. Site and Location Map

CALENDAR ITEM NO. **C19** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

New Construction of One Piling, Debris Diverter, Gangway, Covered Floating Boat Shed and an Uncovered Floating Boat Dock: 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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

Existing 14 Pilings: 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 Philicia G. Lund and Mary K. Lund beginning May 24, 2012, for a term of 10 years, for the continued use and maintenance of 15 existing pilings and the construction of a covered floating boat shed, floating boat dock, gangway, and debris diverter as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 7473.9

LAND DESCRIPTION

Two parcels of tide and submerged land situate in the Sacramento River, lying adjacent to Swamp and Overflow Survey No. 551 and 512, patented November 23, 1874, County of Sacramento, State of California, and more particularly described as follows

PARCEL 1 – DOCK

All those lands underlying a proposed floating boat dock, boat shed, gangway and landing lying adjacent to Parcel 1 as described in Exhibit “A” of that Grant Deed recorded August 15, 2003 in Book 20030815 at Page 0255 in Official Records of said County.

TOGETHER WITH a use area.

PARCEL 2 – DEBRIS DIVERTER

All those lands underlying a proposed debris diverter lying adjacent to said Parcel.

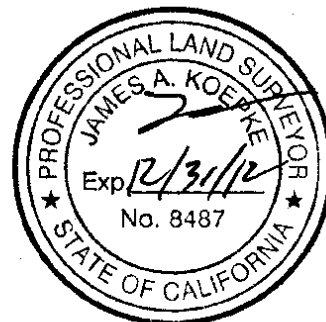
EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the right bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

This description is based on Applicant provided design plans found in the Application for Lease of State Lands for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

END OF DESCRIPTION

Prepared April 5, 2012 by the California State Lands Commission Boundary Unit.



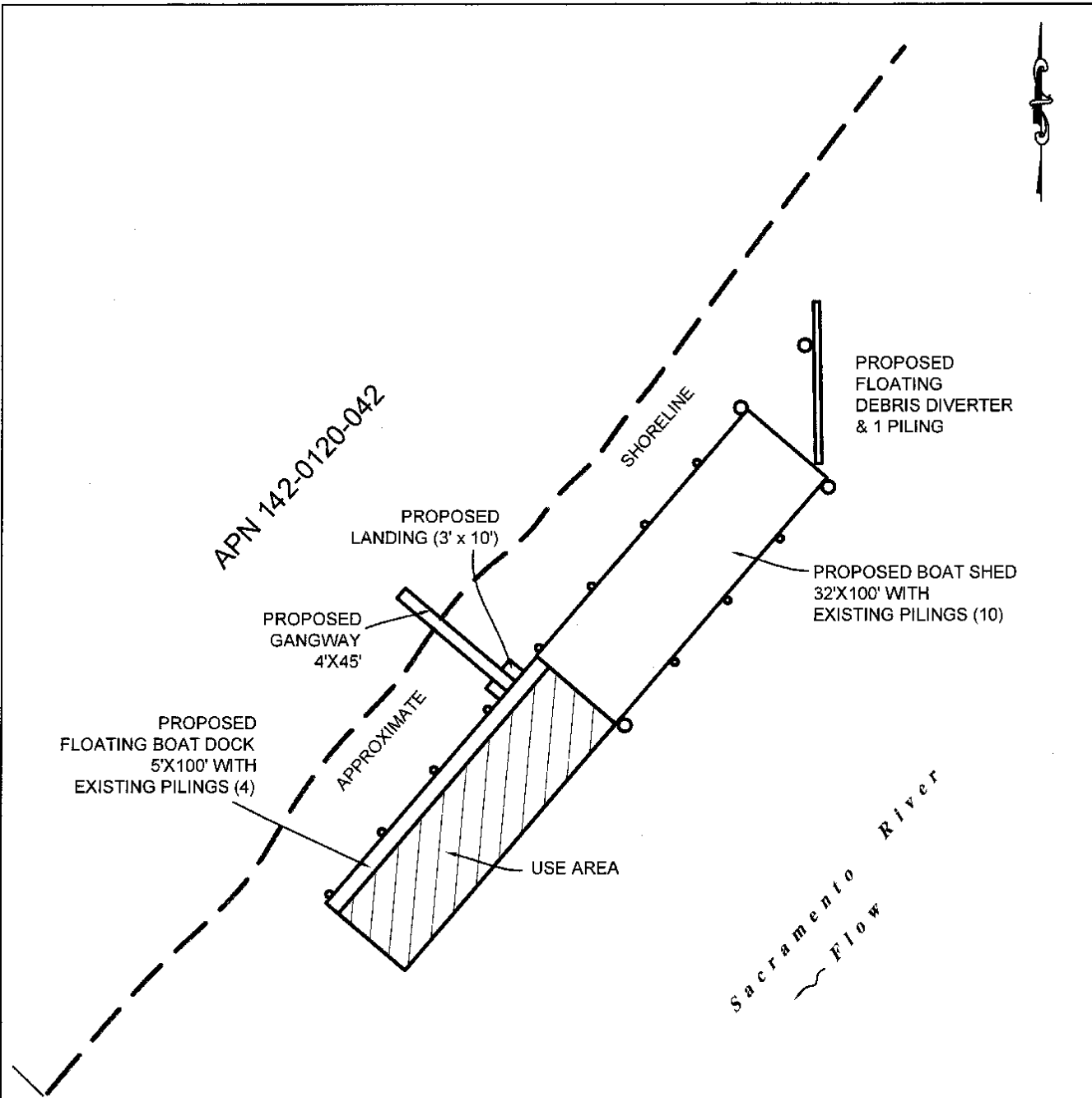


EXHIBIT A

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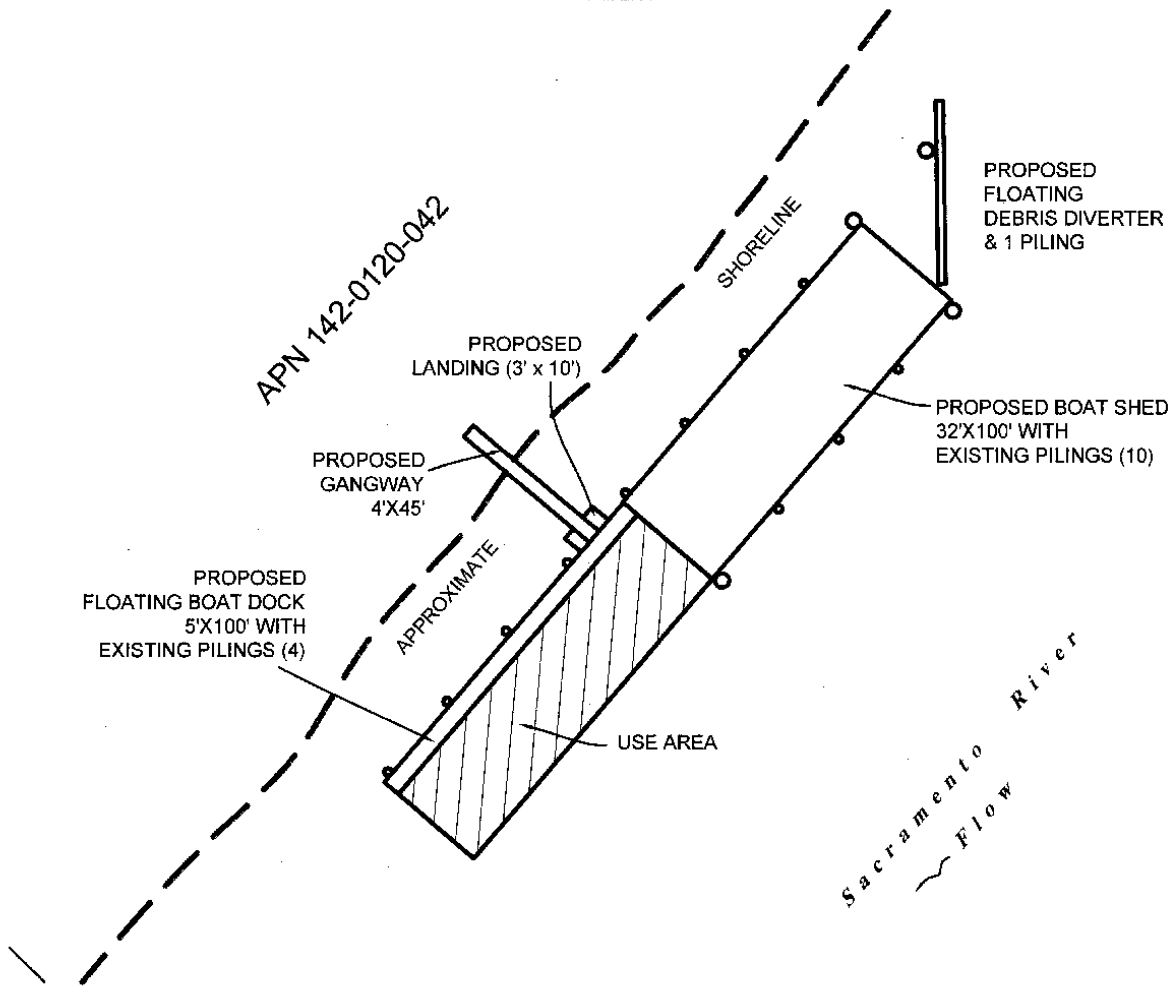
LAND DESCRIPTION PLAT
 PRC 7473.9, LUND
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

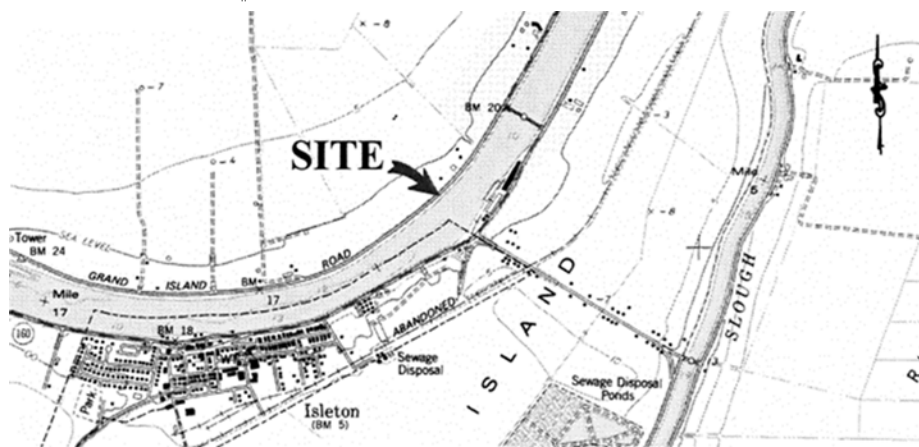
SITE



17781 GRAND ISLAND RD., WALNUT GROVE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7473.9
 LUND
 APN 142-0120-042
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



MJJ 04/12/12

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.