

**CALENDAR ITEM
C45**

A 17, 26
S 5

05/24/12
PRC 7110.1
V. Caldwell

**CONSIDER ACCEPTANCE OF A QUITCLAIM DEED,
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE
STRUCTURE USE**

LESSEES:

Charles G. Patmon III and Cheryl L. Patmon, Co-Trustees of the Delta Property Administration Trust II, dated February 23, 1994

APPLICANT:

PACK, LLC – Series B, a Delaware Limited Liability Company

AREA, LAND TYPE, AND LOCATION:

Filled and unfilled Sovereign land located in the historic bed of the San Joaquin River, adjacent to 2013 Cove Court, Atherton Cove, city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock with boatlift, ramp, single jet-ski float, redwood deck, and bank protection previously authorized by the Commission, bulkhead with fill, a fiberglass dock extension, and double jet-ski float not previously authorized by the Commission.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

Uncovered Floating Boat Dock with Boatlift, Fiberglass Dock Extension, Ramp, Single Jet-Ski Float, Double Jet-Ski Float, Redwood Deck, and Bulkhead and Fill: \$2,101 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. **C45** (CONT'D)

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On May 10, 2007, the Commission authorized a General Lease – Recreational and Protective Structures Use, to Charles G. Patmon III and Cheryl L. Patmon, Co-Trustees of the Delta Property Administration Trust II, dated February 23, 1994, for an existing uncovered floating boat dock with boatlift, ramp, single jet-ski float, redwood deck, and bank protection. The bulkhead and fill, fiberglass dock extension and double jet-ski float have always existed at the site, but were not called out in the original lease and not previously authorized by the Commission. The lease will expire on July 31, 2017.
3. While in the process of completing a rent review on the lease, staff discovered that the Lessee transferred the upland property to PACK, LLC - Series B, a Delaware Limited Liability Company on December 29, 2009. From the above transfer date, the new owner was subject to rent pursuant to the then provisions of Section 6503.5 of the Public Resource Code. Effective January 1, 2012, Senate Bill 152 (Chapter 585, Statutes of 2011) requires the Commission to charge rent for the use of State sovereign land for private recreational pier facilities. Therefore, staff has negotiated back rent in the amount of \$4,831.45 from December 29, 2009 through May 23, 2012. At the time the original lease was negotiated, the redwood deck was the only portion of the facility subject to rent because it was not used for the docking and mooring of boats.
4. The Lessees have executed a lease quitclaim deed transferring any and all right, title, and interest in the prior lease back to the Commission, and the Applicant has applied for a new lease. Staff recommends acceptance of back rent, acceptance of a lease quitclaim deed, and issuance of a new lease.
5. The bank protection mutually benefits both the public and the Applicant. The historic bank of the San Joaquin River will have the additional protection from wave action provided at no cost to the public.
6. **Acceptance of a Quitclaim Deed:** The staff recommends that the Commission find that the subject acceptance of a quitclaim deed 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).

CALENDAR ITEM NO. **C45** (CONT'D)

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

7. **Issuance of 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 California Code of Regulations, Title 14, 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:

Acceptance of Quitclaim Deed: Find that the subject acceptance of a quitclaim deed 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.

Issuance of 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).

CALENDAR ITEM NO. C45 (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:

1. Authorize acceptance of back rent in the amount of \$4,831.45 from December 29, 2009, to May 23, 2012.
2. Authorize acceptance of a Lease Quitclaim Deed for General Lease – Recreational and Protective Structure Use, No. PRC 7110.1, issued to Charles G. Patmon III and Cheryl L. Patmon, Co-Trustees of the Delta Property Administration Trust II, dated February 23, 1994, effective May 23, 2012.
3. Authorize issuance of a General Lease – Recreational and Protective Structure Use to PACK, LLC – Series B, a Delaware Limited Liability Company, beginning May 24, 2012, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock with boatlift, ramp, single jet-ski float, redwood deck, and bank protection previously authorized by the Commission, bulkhead with fill, a fiberglass dock extension, and double jet-ski float 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 existing uncovered floating boat dock with boatlift, fiberglass dock extension, ramp, single jet-ski float, double jet-ski float, redwood deck, and bulkhead and fill: annual rent in the amount of \$2,101, with the State reserving the right to fix a different rent periodically during the term of 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 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 7110.1

LAND DESCRIPTION

A parcel of tide and submerged land, whether filled or unfilled, situate in the bed of the Atherton Cove (formerly the bed of the San Joaquin River), lying adjacent to Swamp and Overflowed Land Survey 444, patented December 19, 1867, County of San Joaquin County, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, boat hoist, jet-ski lifts, ramp, deck, and bulkhead lying adjacent to and southwesterly of those lands as described in "Exhibit A" of that Grant Deed, recorded December 29, 2009 in Document Number 2009-183949 in Official Records of said County.

ALSO TOGETHER WITH a 10 foot use area.

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

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of the historic San Joaquin River.

Accompanying plat is hereby made part of this description.

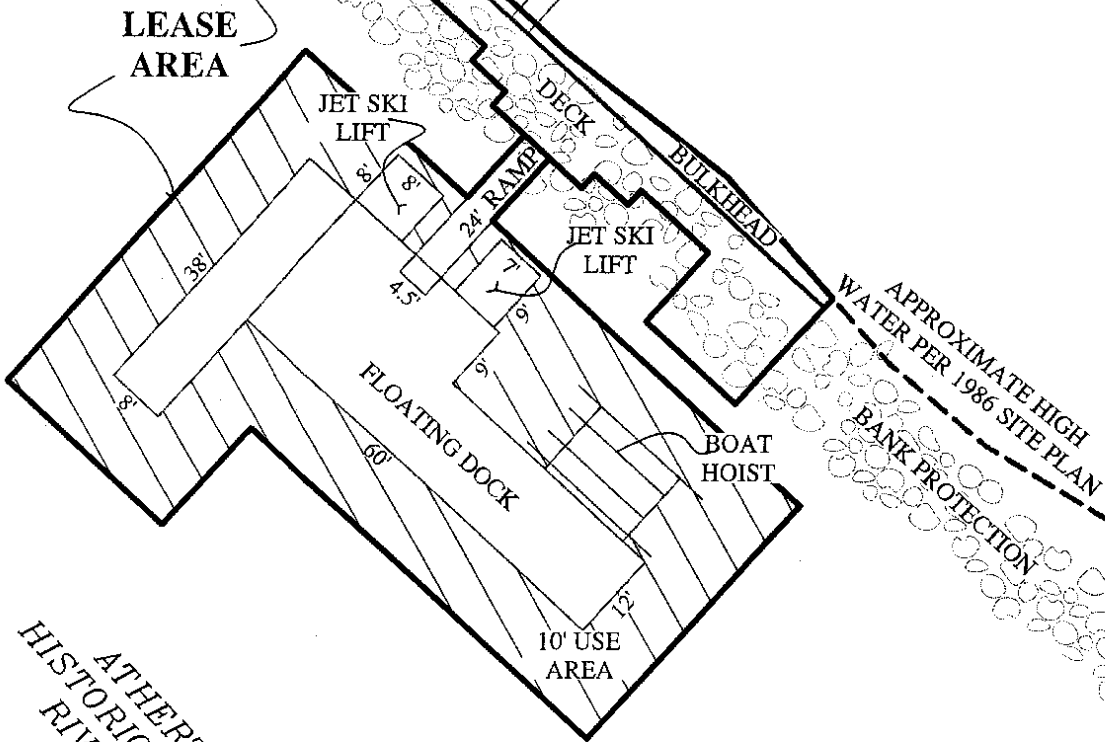
END OF DESCRIPTION

PREPARED 1/11/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

APN 121-220-14



ATHERTON COVE
HISTORIC SAN JOAQUIN
RIVER CHANNEL

EXHIBIT A

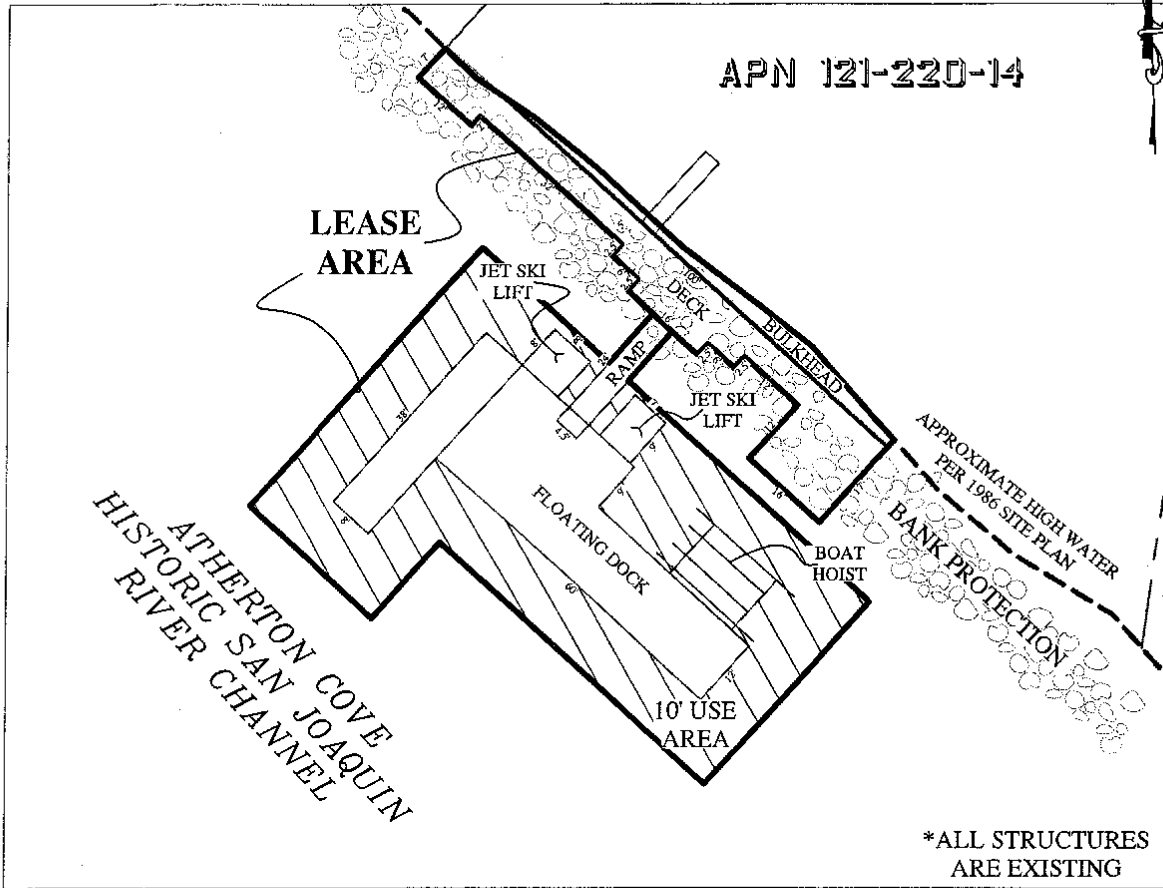
LAND DESCRIPTION PLAT
PRC 7110.1 - PACK LLC
SAN JOAQUIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

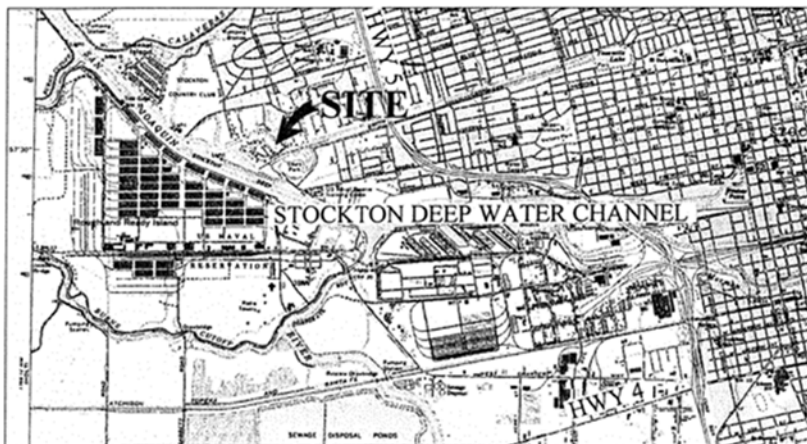
SITE



2013 Cove Court, Stockton

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7110.1
 PACK LLC
 APN 121-220-14
 GENERAL LEASE
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SAN JOAQUIN COUNTY



MIF 2/15/12

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.