

**CALENDAR ITEM
C12**

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S 6

12/05/12
PRC 5840.1
V. Caldwell

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Michael S. Tinker

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 2375 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Removal of an existing single-berth floating boat dock; construction, use, and maintenance of a T-shaped uncovered floating boat dock; continued use and maintenance of two existing deadmen with three winches, galvanized cables, gangway, and stairs previously authorized by the Commission, and use and maintenance of existing bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning December 5, 2012.

CONSIDERATION:

Proposed T-Shaped Uncovered Floating Boat Dock, Two Deadmen with Three Winches, Galvanized Cables, Gangway, and Stairs: \$310 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.

SPECIFIC LEASE PROVISIONS:

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

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OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On September 17, 2001, the Commission authorized a 10-year Recreational Pier Lease to Wesley Scott Bentley. The lease expired on April 30, 2011. On October 6, 2010, the upland was deeded to Michael S. Tinker. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use authorizing the removal of an existing uncovered single-berth floating boat dock; proposed construction of a T-shaped uncovered floating boat dock; and continued use of two existing deadmen with three winches, galvanized cables, gangway, stairs, and bank protection.
3. The Applicant is proposing to remove the existing single-berth floating boat dock by loosening the winches and unhooking the galvanized cables. The dock will float out to a nearby launch ramp, and portions of the dock will be disposed of at a nearby landfill; some portions will be reused on the upland facility.
4. The proposed new T-shaped uncovered floating boat dock will be constructed offsite and floated into place. The dock will be fiberglass with encapsulated foam floats. The new dock will be attached to the two existing deadmen with three winches and secured by galvanized cables. The existing gangway will be used by attaching it to the new dock. The bank protection has existed on site for many years without prior Commission approval. Staff recommends bringing the placement of the proposed T-shaped uncovered floating boat dock and existing bank protection under lease, subject to the Applicant obtaining all necessary permits.
5. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on 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

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- 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 and fees were received after March 31, 2011.

6. 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 no cost to the public.
7. **Two deadmen with three winches, galvanized cables, gangway, stairs, and bank protection:** The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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. **Removal of an existing uncovered single-berth floating boat dock and construction of a T-shaped uncovered floating boat dock:** The staff recommends that the Commission find 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).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

9. 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.

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APPROVAL OBTAINED:

Central Valley Flood Protection Board

FURTHER APPROVAL REQUIRED:

U.S. Army Corps of Engineers

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Two deadmen with three winches, galvanized cables, gangway, stairs, and bank protection: 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).

Removal of an existing uncovered single-berth floating boat dock and construction of a T-shaped 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).

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 Michael S. Tinker, beginning December 5, 2012, for a term of 10 years, for removal of an existing uncovered single-berth floating boat dock; construction, use, and maintenance of a T-shaped uncovered floating boat dock; continued use and maintenance of two existing deadmen with three winches, galvanized cables, gangway, and stairs previously authorized by the Commission, and use and maintenance of existing bank protection not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B (for reference purposes

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only) attached and by this reference made a part hereof; consideration for the T-shaped uncovered floating boat dock, two existing deadmen with three winches, galvanized cables, gangway, stairs: \$310 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 rent if the Commission finds such action to be in the State's best interest; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

PRC 5840.1

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 828 patented April 5, 1869, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying a proposed floating boat dock and existing gangway, steps, deadman, deadman with winches and galvanized cables lying adjacent to that parcel described in Grant Deed, recorded October 6, 2010 in Book 20101006 at Page 1240 in Official Records of said County.

TOGETHER WITH an impact area.

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said parcel.

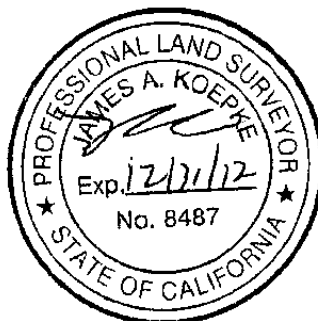
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

This description is based on Applicant provided design plans found in the Application for Lease of State Lands for a proposed floating dock, 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.

Prepared 10/24/12 by the California State Lands Commission Boundary Unit



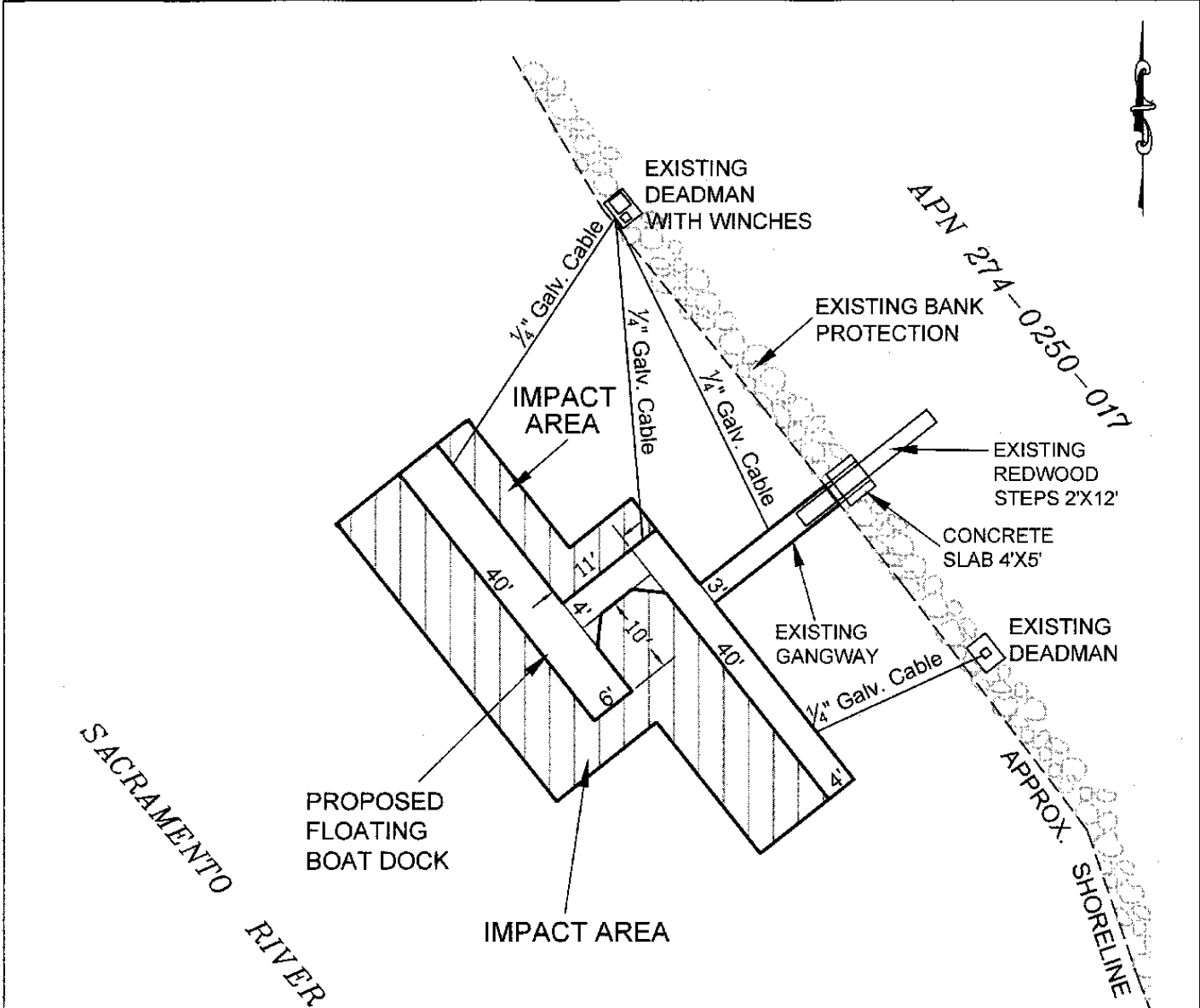


EXHIBIT A

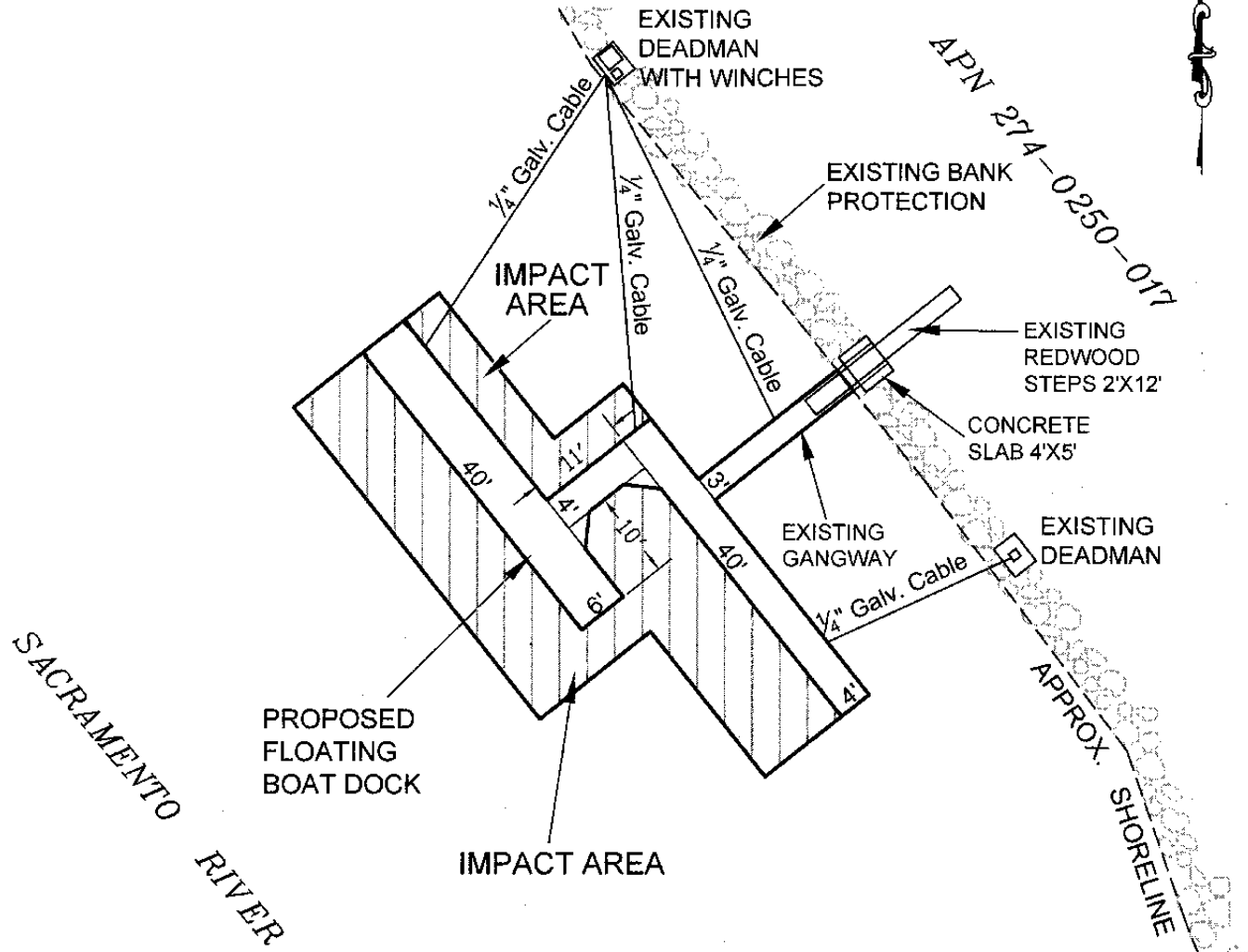
LAND DESCRIPTION PLAT
 PRC 5840.1, TINKER
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

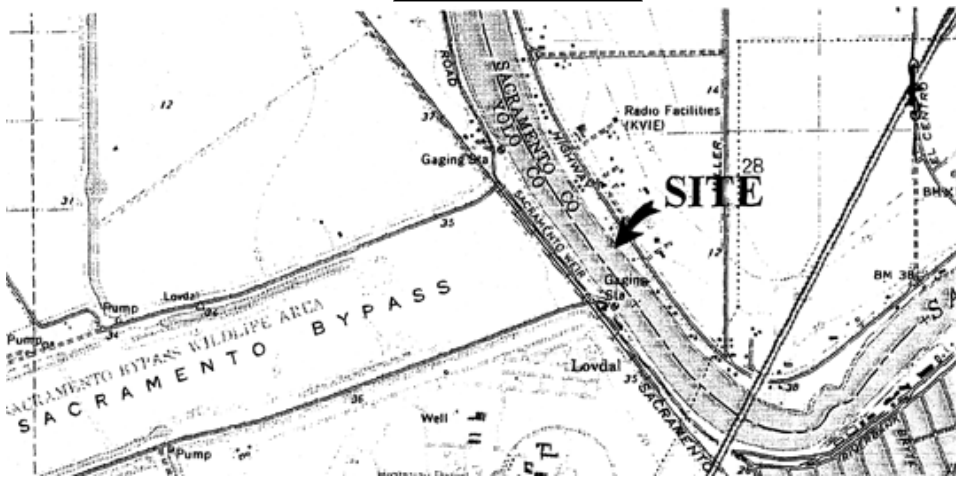
SITE



2375 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5840.1
 TINKER
 APN 274-0250-017
 GENERAL LEASE-
 RECREATIONAL AND
 PROTECTIVE
 STRUCTURE 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.