

**CALENDAR ITEM
C27**

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04/05/16

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PRC 3045.1
G. Asimakopoulos

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Aloysia R. Fouche, Trustee, Fouche Trust, dated September 17, 1991

PROPOSED LEASE AREA:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Georgiana Slough, adjacent to 455 West Willow Tree Lane, on Andrus Island, near the city of Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing boatshed, enclosed cabana, uncovered floating boat dock, two decks, two ramps, two landings, walkway, seven pilings, and two unattached pilings.

LEASE TERM:

10 years, beginning May 1, 2015.

CONSIDERATION:

\$1,669 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

The subject boatshed, uncovered floating boat dock, and appurtenant facilities are for the docking and mooring of boats. Recreational boating is water-dependent and is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5). The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence, so there is no public access from the upland.

The enclosed cabana and two decks are not associated with traditional public trust uses. The Commission has issued leases on a limited basis for portions of existing structures that encroach onto sovereign lands that are not consistent with the public trust where such encroachments do not significantly interfere with the public trust needs and values at that location. Portions of the decks are used as access to the recreational improvements. Furthermore, the resources, costs, time and uncertainty associated with seeking removal of these relatively small encroachments are significant.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision.

The improvements have existed for many years at this location; the facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that, on balance, the improvements will not substantially interfere with public trust needs, at this location, at this time, for the foreseeable term of the proposed lease.

The proposed lease requires the Lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is, on balance, consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns a portion of the upland adjoining the lease premises

CALENDAR ITEM NO. **C27** (CONT'D)

2. On April 26, 2005, the Commission authorized a 10-year General Lease - Recreational Use to Aloysia R. Fouche, Trustee, Fouche Trust, dated September 17, 1991. That lease expired on April 30, 2015. The Applicant is now applying for a General Lease – Recreational Use.
3. This action is consistent with Strategy 1.1 of the Commission’s Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission’s jurisdiction.
4. 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.

5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are “significant” by nature of their public ownership (as opposed to “environmentally significant”). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project’s consistency with the use classification as required by California Code of Regulations, Title 2, section 2954 is not applicable.

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).

CALENDAR ITEM NO. **C27** (CONT'D)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease, on balance, will not substantially interfere with the public trust needs and values at this location, at this time, and for the foreseeable term of the lease, and issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Aloysia R. Fouche, Trustee, Fouche Trust, dated September 17, 1991, beginning May 1, 2015, for a term of 10 years, for the continued use and maintenance of an existing boatshed, enclosed cabana, uncovered floating boat dock, two decks, two ramps, two landings, walkway, seven pilings, and two unattached pilings, 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 \$ \$1,669, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3045.1

LAND DESCRIPTION

Three parcels of tide and submerged land situate on the right bank of Georgiana Slough, lying adjacent to Swamp and Overflow Survey 943, patented April 14, 1873, Sacramento County, State of California, more particularly described as follows:

PARCEL 1

All those lands underlying an existing boatshed, enclosed cabana, uncovered floating boat dock, two (2) decks, two (2) ramps, two (2) landings, walkway and seven (7) attached 1' diameter wood pilings adjacent to that parcel as described in Exhibit "A" in that Individual Grant Deed recorded January 9, 1992, in Book 92-01-9, Page 335 of Official Records of said County.

TOGETHIER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the right bank of Georgiana Slough.

PARCEL 2

All those lands underlying an existing unattached 1' diameter wood piling adjacent to that parcel as described in Exhibit "A" in that Individual Grant Deed recorded January 9, 1992, in Book 92-01-9, Page 335 of Official Records of said County.

PARCEL 3

All those lands underlying an existing unattached 4"x 8" wood piling adjacent to that parcel as described in Exhibit "A" in that Individual Grant Deed recorded January 9, 1992, in Book 92-01-9, Page 335 of Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 21, 2016 by

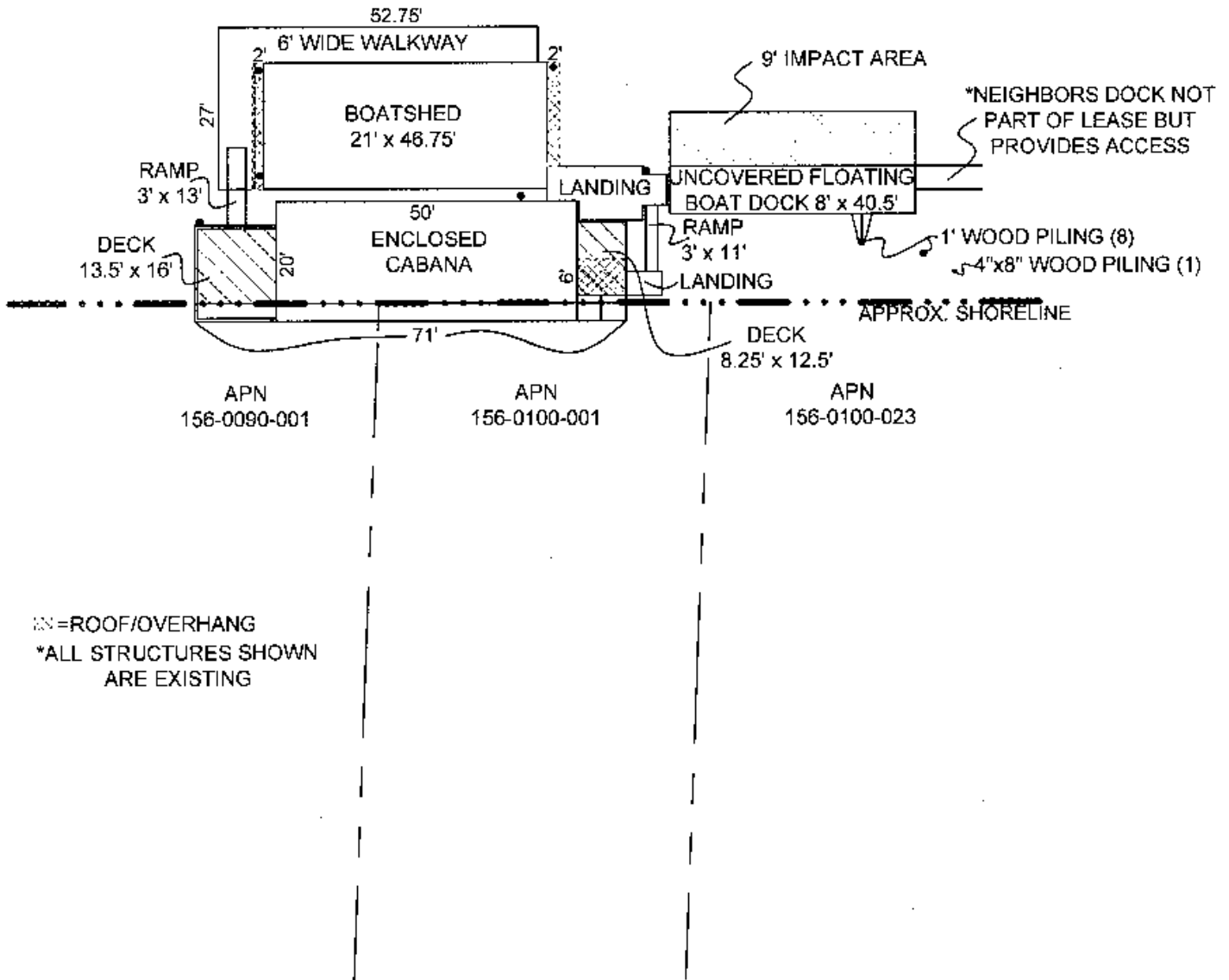
the California State Lands Commission

Boundary Unit

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Georgiana Slough



= ROOF/OVERHANG
 *ALL STRUCTURES SHOWN ARE EXISTING

EXHIBIT A

LAND DESCRIPTION PLAT
 PRC 3045.1, FOUCHE TRUST
 SACRAMENTO COUNTY

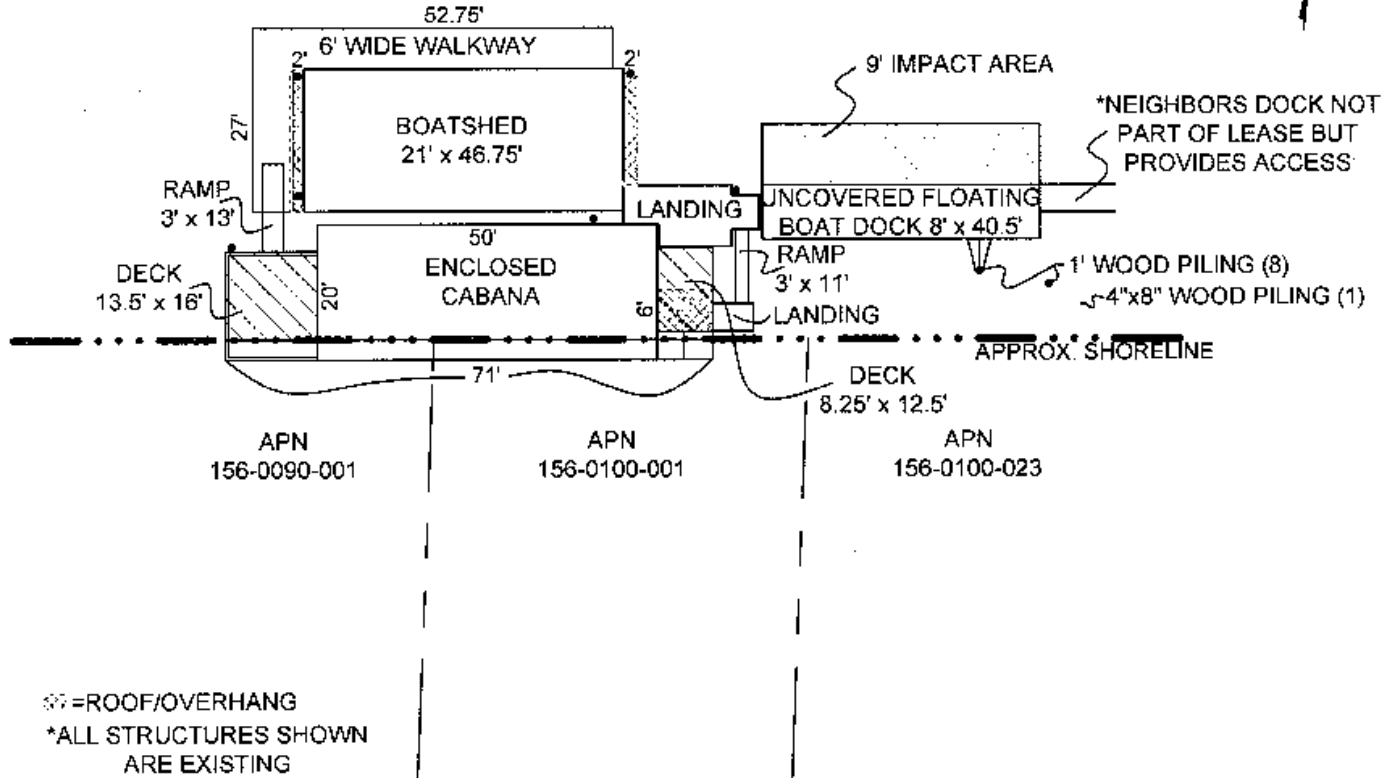
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

Georgiana Slough



455 WEST WILLOW TREE LANE, NEAR ISLETON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3045.1
 FOUCHE TRUST
 APN 156-0100-001
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



MJF 3/21/16

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.