

**CALENDAR ITEM
C38**

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06/28/16
PRC 6686.1
D. Tutov

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Arthur Gibson Howell, III

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 3551 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock, gangway, piling, two-pile dolphin and bank protection.

LEASE TERM:

10 years, beginning April 17, 2016.

CONSIDERATION:

Floating boat dock, gangway, piling, and two-pile dolphin: \$151 per year, with an annual Consumer Price Index adjustment.

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 interests.

SPECIFIC LEASE PROVISIONS:

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

The subject dock and appurtenant facilities are for the docking and mooring of boats. Recreational boating is water-dependent and is

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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. 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.

A dock and appurtenant facilities 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 the dock and appurtenant facilities will not substantially interfere with public trust needs, at this location, at this time, and 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. The bank protection will maintain and improve the integrity of the river channel, which will help protect the public trust resource of the river for recreational and navigational purposes by the public. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On April 17, 2006, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Arthur Gibson Howell, III. That lease expired on April 16, 2016. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the continued use and maintenance of an existing floating boat dock, gangway, piling, two-pile dolphin and bank protection.
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

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protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

4. 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 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:

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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **C38** (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:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Arthur Gibson Howell, III, beginning April 17, 2016, for a term of 10 years, for an existing floating boat dock, gangway, piling, two-pile dolphin and bank protection, as described on Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration for the floating boat dock, gangway, piling, two-pile dolphin: \$151 per year, with an annual Consumer Price Index adjustment; 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 interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6686.1

LAND DESCRIPTION

A parcel of tide and submerged land situate on the left bank of the Sacramento River, lying adjacent to Swamp and Overflow Survey 178, patented June 10, 1869, County of Sacramento, State of California and more particularly described as follows:

PARCEL 1 - DOCK

All those lands underlying an existing floating boat dock, one (1) piling, one (1) 2-pile dolphin and walkway adjacent to that parcel described in that Grant Deed recorded February 28, 2012 in Book 20120228 Page 616, in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

Accompanying plat is hereby made a part of this description.

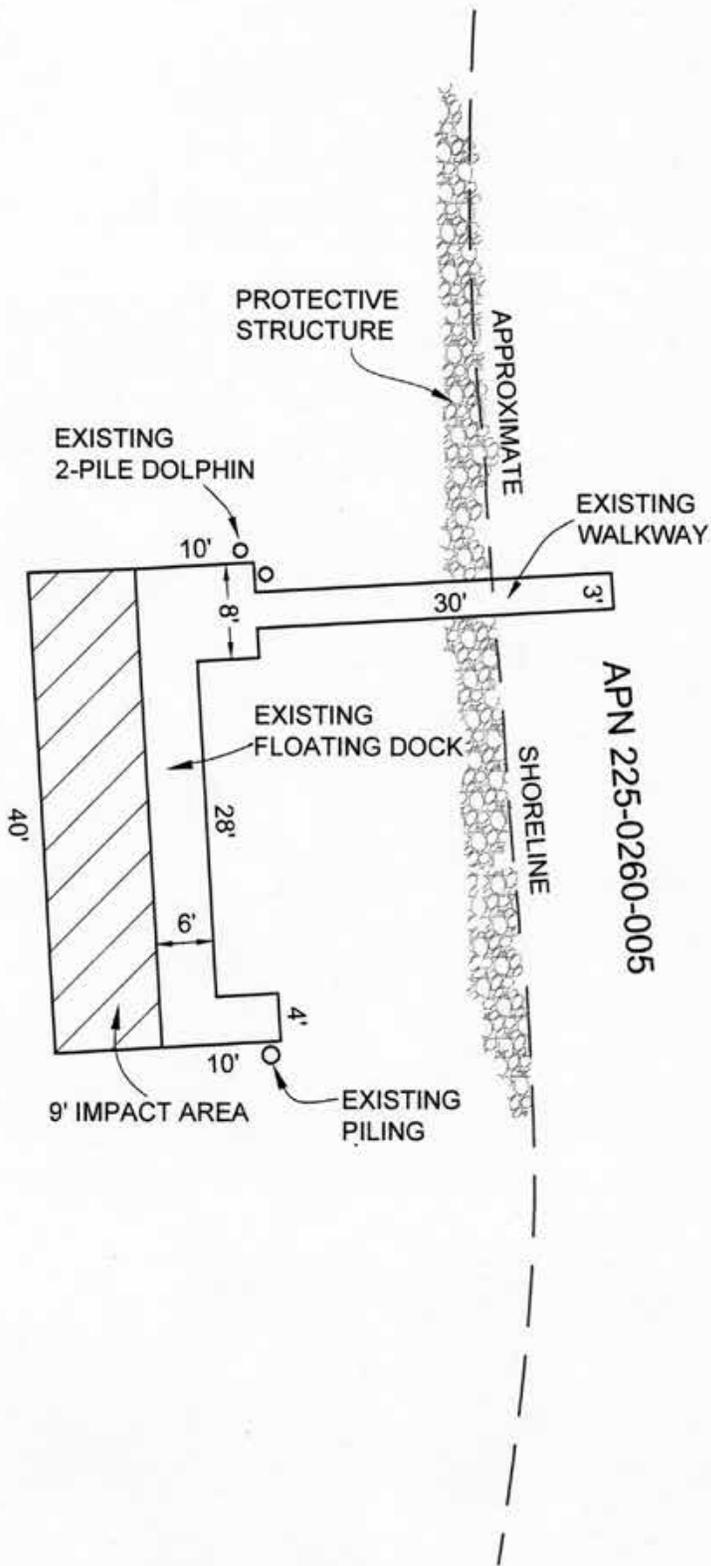
END OF DESCRIPTION

Prepared May 10, 2016, by the California State Lands Commission Boundary Unit.





Sacramento River



APN 225-0260-005

EXHIBIT A

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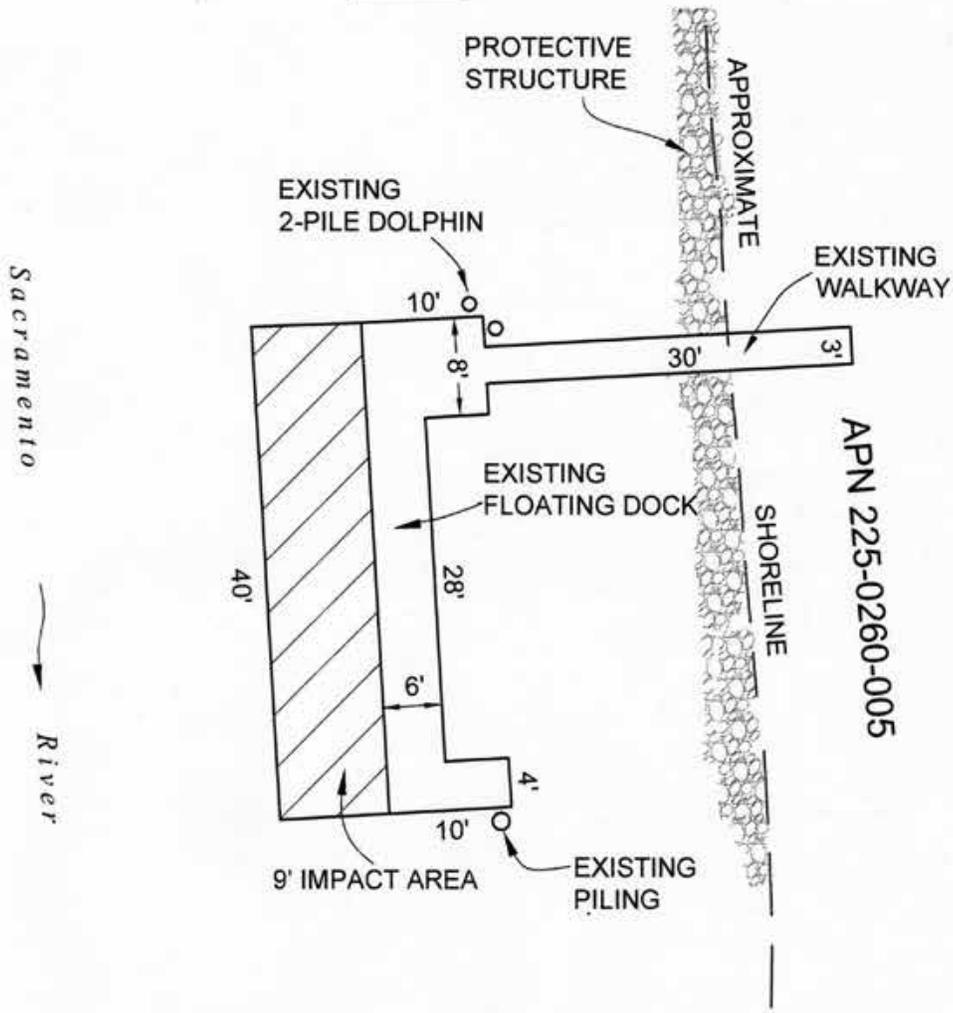
LAND DESCRIPTION PLAT
 PRC 6686.1, HOWELL, III
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



3551 GARDEN HIGHWAY, NEAR SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6686.1

HOWELL III

APN 225-0260-005

GENERAL LEASE -

RECREATIONAL &

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.

MJJ 5/17/16