

**CALENDAR ITEM
C34**

A 7

10/13/16

S 6

PRC 5865.1

D. Tutov

**TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND
PROTECTIVE STRUCTURE USE**

LESSEE:

Peter R. Moore and Jan Moore

APPLICANT:

JaniCo, LLC

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 7257 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 May 6, 2016.

CONSIDERATION:

Floating boat dock, gangway, piling, and two-pile dolphin: \$125 per year, with an annual Consumer Price Index adjustment.

Bank protection: 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:

Insurance:

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

CALENDAR ITEM NO. **C34** (CONT'D)

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:

On August 24, 2006, the Commission authorized a General Lease - Recreational and Protective Structure Use to Peter R. Moore and Jan Moore. That lease expired on August 23, 2016. The upland adjacent to the lease area has changed hands several times since 2006. The Applicant, who acquired the upland on May 6, 2016, is now applying for a General Lease – Recreational and Protective Structure Use for the existing improvements. Staff recommends terminating the prior lease because Peter R. Moore and Jan Moore abandoned the lease by transferring the property and facility without notifying Commission staff or executing a quitclaim deed.

The subject dock and appurtenant facilities are privately owned and maintained and are used 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 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 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, or 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

CALENDAR ITEM NO. **C34** (CONT'D)

river channel, which will help protect the Public Trust resources and values 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. 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.
2. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA), because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. 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 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.

4. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

CALENDAR ITEM NO. **C34** (CONT'D)

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 interfere with the Public Trust needs and values at this location at this time, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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 termination, effective May 5, 2016, of Lease No. PRC 5865.9, a General Lease – Recreational and Protective Structure Use to Peter R. Moore and Jan Moore.

2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to JaniCo, LLC, beginning May 6, 2016, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, gangway, piling, two-pile dolphin, and bank protection, 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 floating boat dock, gangway, piling and two-pile dolphin: \$125 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 5865.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 924 patented August 24, 1870, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing floating boat dock, two-piling dolphin, one piling and gangway, lying adjacent to those parcels as described in Exhibit A of that Grant Deed recorded May 6, 2016, in Book 20160506 Page 614 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure 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 part of this description.

END OF DESCRIPTION

Prepared July 20, 2016 by the California State Lands Commission Boundary Unit.





River

Sacramento

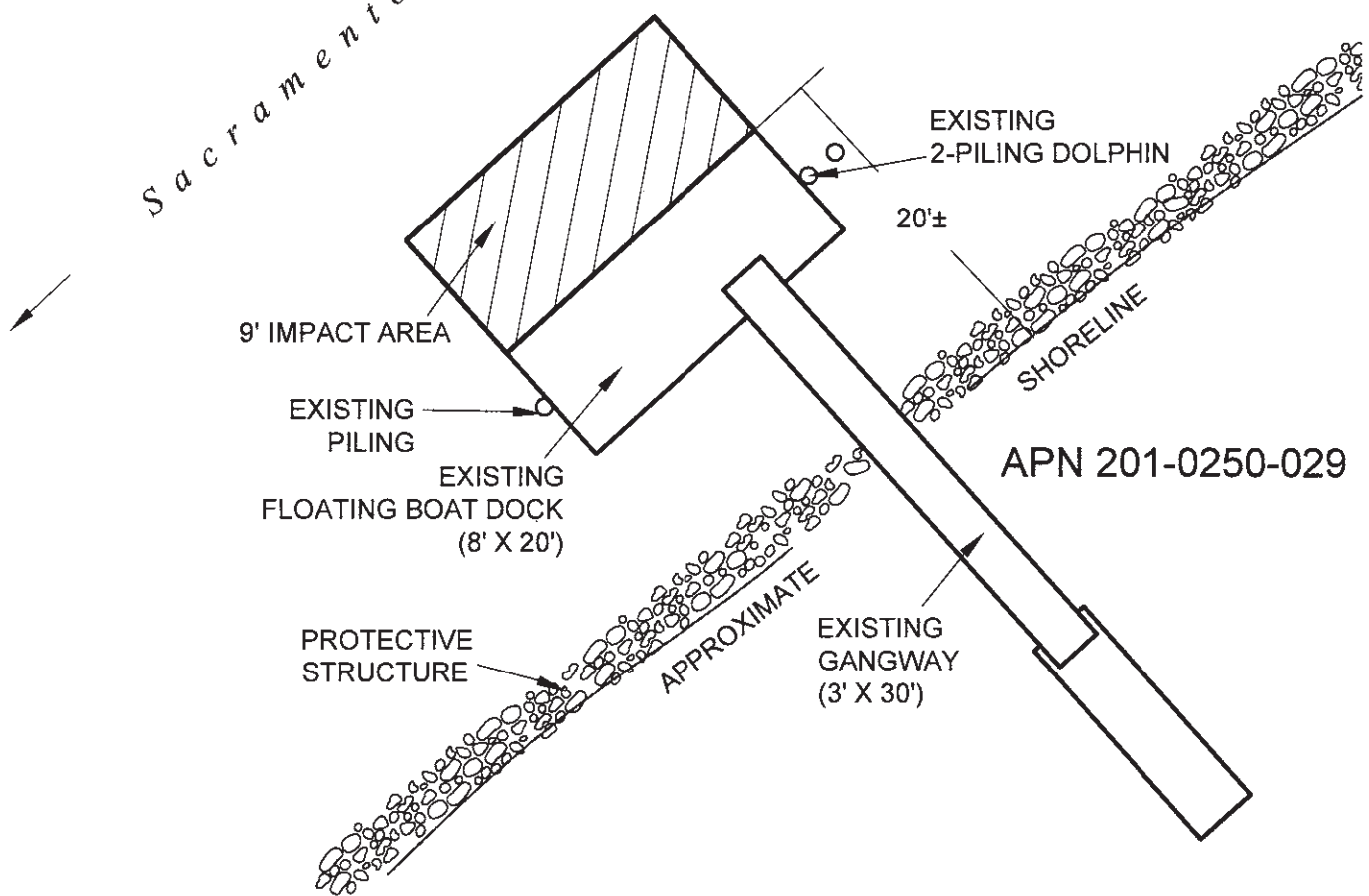


EXHIBIT A

Page 2 of 2

MJJ 7/20/2016

LAND DESCRIPTION PLAT
 PRC 5865.1, JANICO, LLC
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION

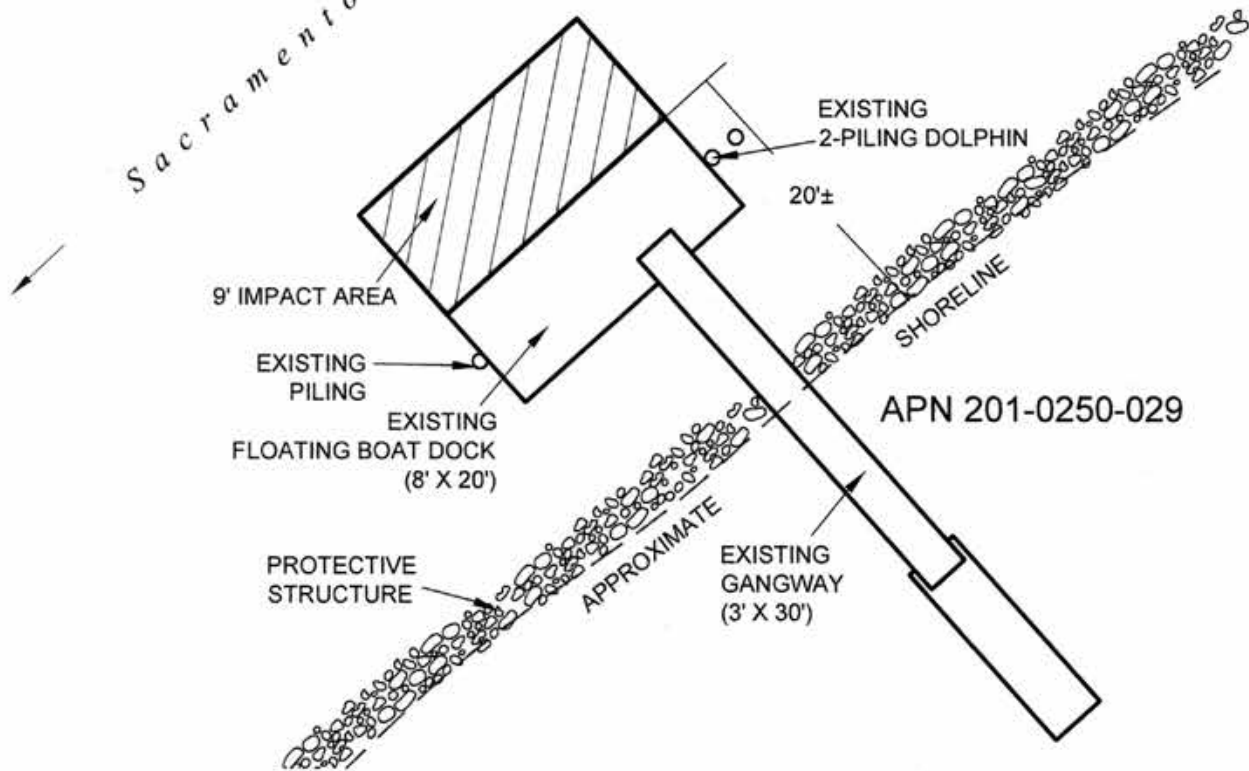


NO SCALE

SITE

River

Sacramento



7257 GARDEN HWY., SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5865.1
 JANICO, LLC
 APN 201-0250-029
 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 7/20/2016