

**CALENDAR ITEM
C34**

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S 6

08/15/14
PRC 4593.1
M. Schroeder

**CORRECTION TO PRIOR AUTHORIZATION AND CONSIDER WAIVER OF
PENALTY AND INTEREST**

LESSEES:

Jerry D. Hicks and Kathy Hicks

CORRECTED NAME OF LESSEES:

Jerry D. Hicks and Kathy Hicks aka Kathleen Schneider

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 1851 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, one piling, a three-pile dolphin, gangway, bank protection, and horizontal pile brace.

LEASE TERM:

10 years, beginning March 29, 2012.

CONSIDERATION:

Uncovered floating boat dock, one piling, a three-pile dolphin, horizontal pile brace, and gangway: \$182 per year with the State reserving the right to fix a different rent periodically during the lease, 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.

OTHER PERTINENT INFORMATION:

1. On March 29, 2012, the Commission authorized a General Lease – Recreational and Protective Structure Use with Jerry D. Hicks and Kathy Hicks for an existing uncovered floating boat dock, one piling, a three-pile dolphin, gangway, bank protection, and horizontal pile brace effective March 29, 2012. Annual rent was set at \$182. In 2012 and again in 2013,

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the Lessees were invoiced for the annual rent. Due to an error on the deed recorded September 10, 2003, one Lessee was incorrectly identified and Kathy Hicks should have been named as Kathleen Schneider. The Lessees delayed signing the lease until the correct name was identified on the lease. In addition, they advised no invoices were received for any rent due. They were under the impression that no rent would be charged until the lease documents were signed. On July 15, 2014, Mr. Hicks and Mrs. Schneider signed the lease documents and paid rent for two lease periods in the amount of \$364. They are now requesting waiver of any penalty and interest due.

2. Due to the confusion regarding the deed and signing of the lease, and the fact that a lease was never executed and no penalty and interest should have technically been applied, staff recommends that penalty and interest accrued, to date, on the \$364 balance be waived. Future late or insufficient payments will be subject to penalty and interest, and may entitle Lessor to other remedies as provided in the Lease. In addition, staff is requesting Commission approval to correct the Lessees name to Jerry D. Hicks and Kathy Hicks aka Kathleen Schneider.
3. The staff recommends that the Commission find that the subject correction of prior authorization and waiver of late payment penalty and interest charges do not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and are, therefore, not projects in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378, California Code of Regulations, Title 2, section 1911, subdivision (c).

EXHIBITS:

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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject correction of prior authorization and waiver of late payment penalty and interest charges are not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activities are not projects as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

1. Authorize correction of the Commission's prior authorization of a General Lease – Recreational and Protective Structure Use, issued to Jerry D. Hicks and Kathy Hicks, to change the Lessees name to Jerry D. Hicks and Kathy Hicks aka Kathleen Schneider; all other terms and conditions of the prior authorization and lease remain unchanged and in effect.
2. Waive penalty and interest accrued, to date, on the past due amount of \$364.

EXHIBIT A

PRC 4593.1

LAND DESCRIPTION

A parcel of tide and submerged land situate on the left bank of the Sacramento River, lying adjacent to Lot 1 of fractional Section 27, Township 9 North, Range 4 East, MDM, County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, one piling, three-pole dolphin and horizontal pile brace adjacent to that parcel as described in that Individual Grant Deed recorded January 19, 1988 in Book 880119 at Page 1295, of Official Records of said County.

TOGETHER WITH a ten foot use area.

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

EXCEPTING THEREFROM any portion 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 December 21, 2011 by the California State Lands Commission Boundary Unit.



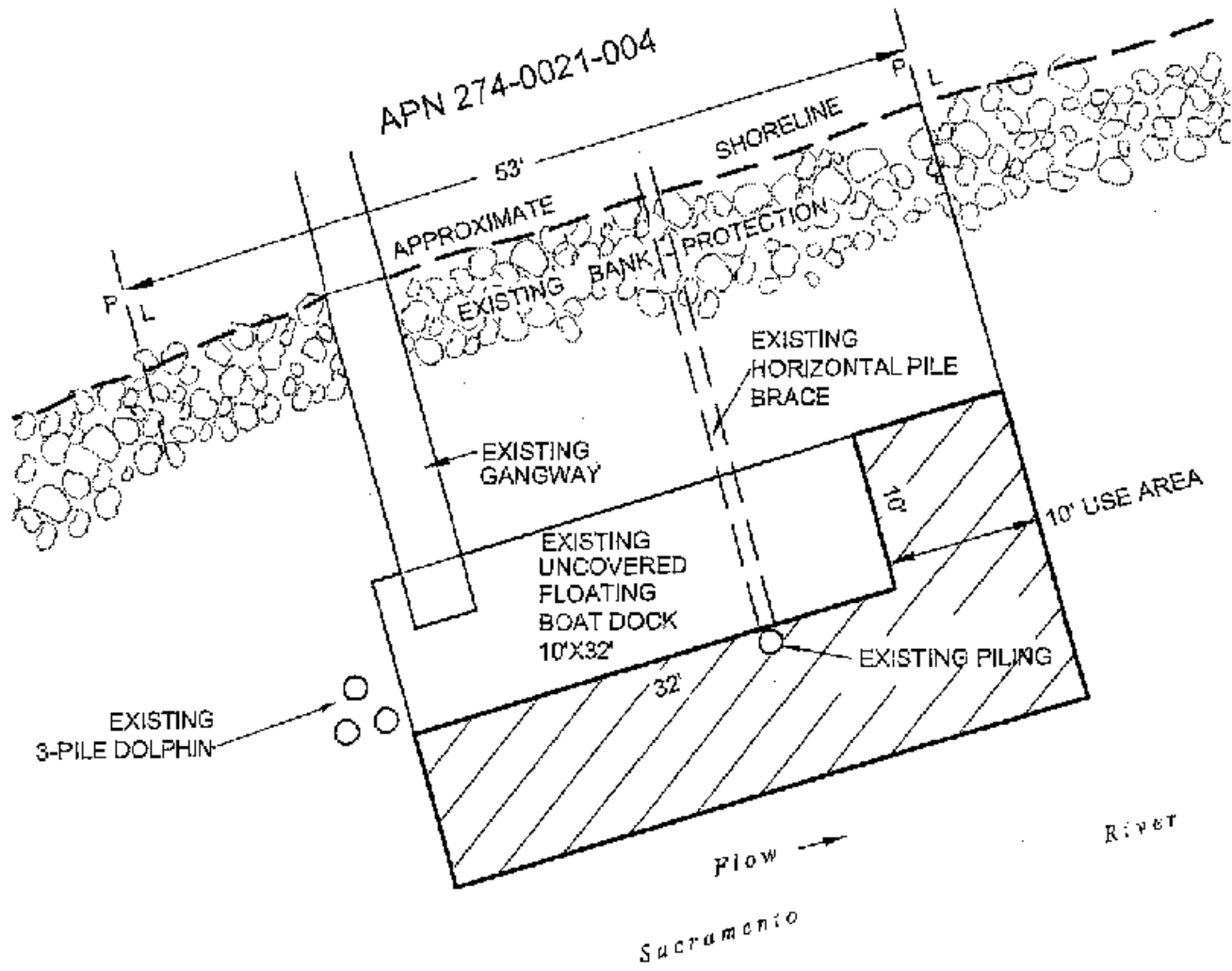


EXHIBIT A

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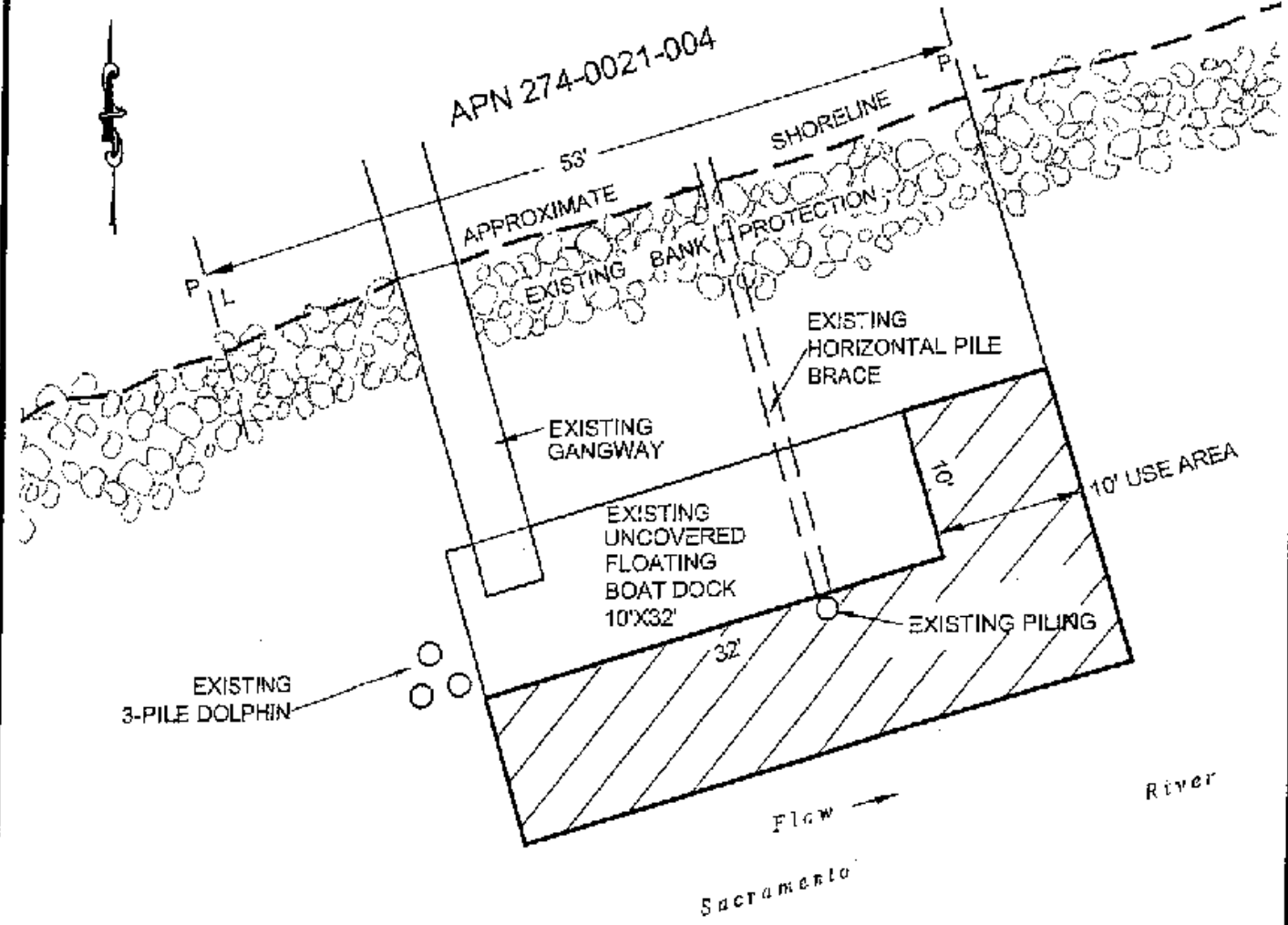
LAND DESCRIPTION PLAT
PRC 4593.1, HICKS-SCHNEIDER
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



1851 GARDEN HWY., SACRAMENTO RIVER

NO SCALE

LOCATION

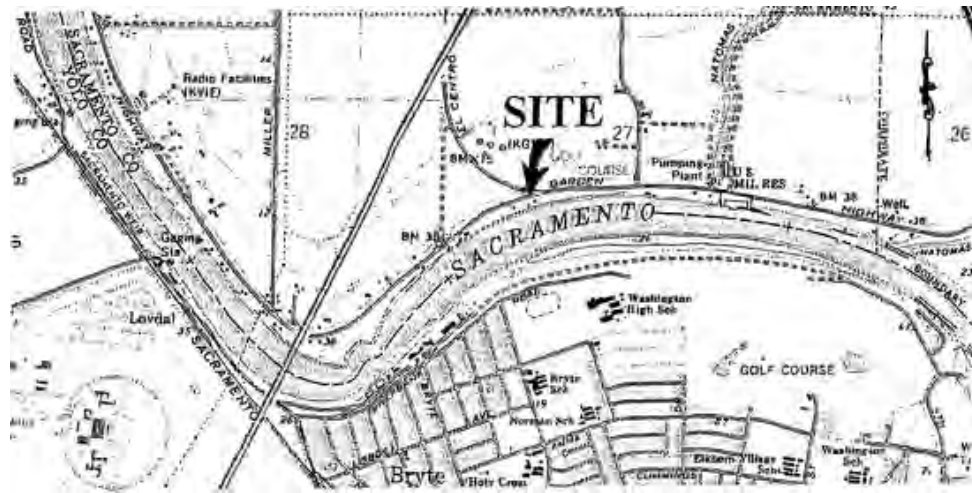


Exhibit B

PRC 4593.1
 HICKS-SCHNEIDER
 APN 274-0021-004
 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.

MJ 12/21/11