

**CALENDAR ITEM
C38**

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12/18/15

S 3

PRC 4527.1

V. Caldwell

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

RESCINDING APPLICANT:

Laurie Ann Davis

APPLICANT:

Brian Reisbeck and Diane Reisbeck

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 411 2nd Street, city of Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock, gangway, landing, five (5) two-pile dolphins, a patio, bulkhead, walkway, deck, parking lot fill, and bank protection.

LEASE TERM:

10 years, beginning August 14, 2015.

CONSIDERATION:

Floating Boat Dock, Gangway, Landing, Five (5) Two-Pile Dolphins, Walkway, Deck, Patio, bulkhead and Parking Lot Fill: \$465 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 interest.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. There shall be no expansion of the existing patio, walkway, deck, parking lot fill, and related structures as shown on the attached Exhibit B.

CALENDAR ITEM NO. **C38** (CONT'D)

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On August 15, 2014, the Commission authorized a General Lease – Recreational and Protective Structure Use to Laurie Ann Davis. The lease expires on October 21, 2020. Staff made several unsuccessful attempts to obtain a signature on the lease. On August 14, 2015, the property was transferred to Brian Reisbeck and Diane Reisbeck. The Applicant has applied for a General Lease – Recreational and Protective Structure Use.
3. Staff is requesting that the authorization made by the Commission at its August 15, 2014 meeting, Calendar Item 19, be rescinded.
4. The public's right to use California's waterways for navigation, fishing, and water-borne commerce is protected by the common law Public Trust Doctrine. Historically, the Public Trust ensures the right of the public to use its waterways to engage in "commerce, navigation, and fisheries." More recently, the Doctrine has been broadened by various court decisions to include various forms of water recreation, visitor-serving facilities, and preservation of lands in their natural state in order to protect scenic and wildlife habitat values. The Public Trust, as a common law doctrine, is not static but is continuously evolving to protect the public's needs and values inherent in the use of California's waterways.
5. The proposed application seeks authorization for the continued use and maintenance of an existing deck, patio, uncovered floating boat dock, gangway, landing, dolphins, walkway, parking lot fill, and bank protection. The uncovered floating boat dock, gangway, landing, dolphins, and walkway are water-dependent facilities used for the docking of boats in order to aid in the navigation of the Sacramento River and other navigable waterways in the greater region. These particular facilities promote and accommodate recognized Public Trust needs and values consistent with Public Trust Doctrine. The deck, patio and parking lot fill have existed in the Sacramento River for many years and have a relatively small footprint. As such, the deck, patio and parking lot fill does not substantially interfere with the needs and values of the Public Trust Doctrine at this location and for the foreseeable future, as defined by the term of the proposed non-exclusive lease.
6. The bank protection will mutually benefit both the public and the Applicant. The bank of the Sacramento River will have additional protection from wave action provided at no cost to the public.

CALENDAR ITEM NO. C38 (CONT'D)

7. Rescission of the lease approval 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).

8. The staff recommends that the Commission find that issuance of the lease 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.

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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the rescission of the August 15, 2014, Calendar Item 19, approval is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15378, subdivision (b)(5) as an administrative activity that will not result in direct or indirect physical changes in the environment.

Find that that issuance of the lease 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. **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:

1. Authorize the rescission of Lease No. PRC 4257.1, a General Lease – Recreational and Protective Structure Use to Laurie Ann Davis.

2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Brian Reisbeck and Diane Reisbeck beginning August 14, 2015, for a term of 10 years, for the continued use and maintenance of an existing an existing floating boat dock, gangway, landing, five (5) two-pile dolphins, a patio, bulkhead, walkway, deck, and parking lot fill, 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 the floating boat dock, gangway, landing, five (5) two-pile dolphins, walkway, deck, patio, and parking lot fill: \$465 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 4527.1

LAND DESCRIPTION

Four (4) parcels of tide and submerged land, whether filled or unfilled, situate in the bed of the Sacramento River lying adjacent to Swamp and Overflowed Land Survey 651, patented August 11, 1874, County of Sacramento, State of California, and more particularly described as follows:

PARCEL 1

All those lands underlying an existing uncovered floating boat dock, two (2) two-pile dolphins, ramp, landing, patio, walkway, deck, fill and bulkhead lying adjacent to and northerly of those lands as described in "Exhibit A" of that Grant Deed, recorded March 6, 2007 in Book 20070306, Page 0361 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

ALSO TOGETHER WITH all those lands underlying existing bank protection lying adjacent to said deed.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

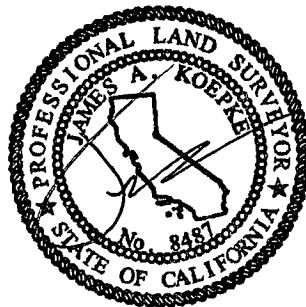
PARCELS 2 thru 4

All those lands underlying three (3) unattached two-pile dolphins lying adjacent to and northerly of those lands as described in "Exhibit A" of that Grant Deed, recorded March 6, 2007 in Book 20070306, Page 0361 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 11/04/15 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



SACRAMENTO RIVER

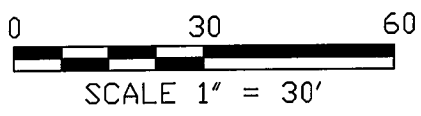
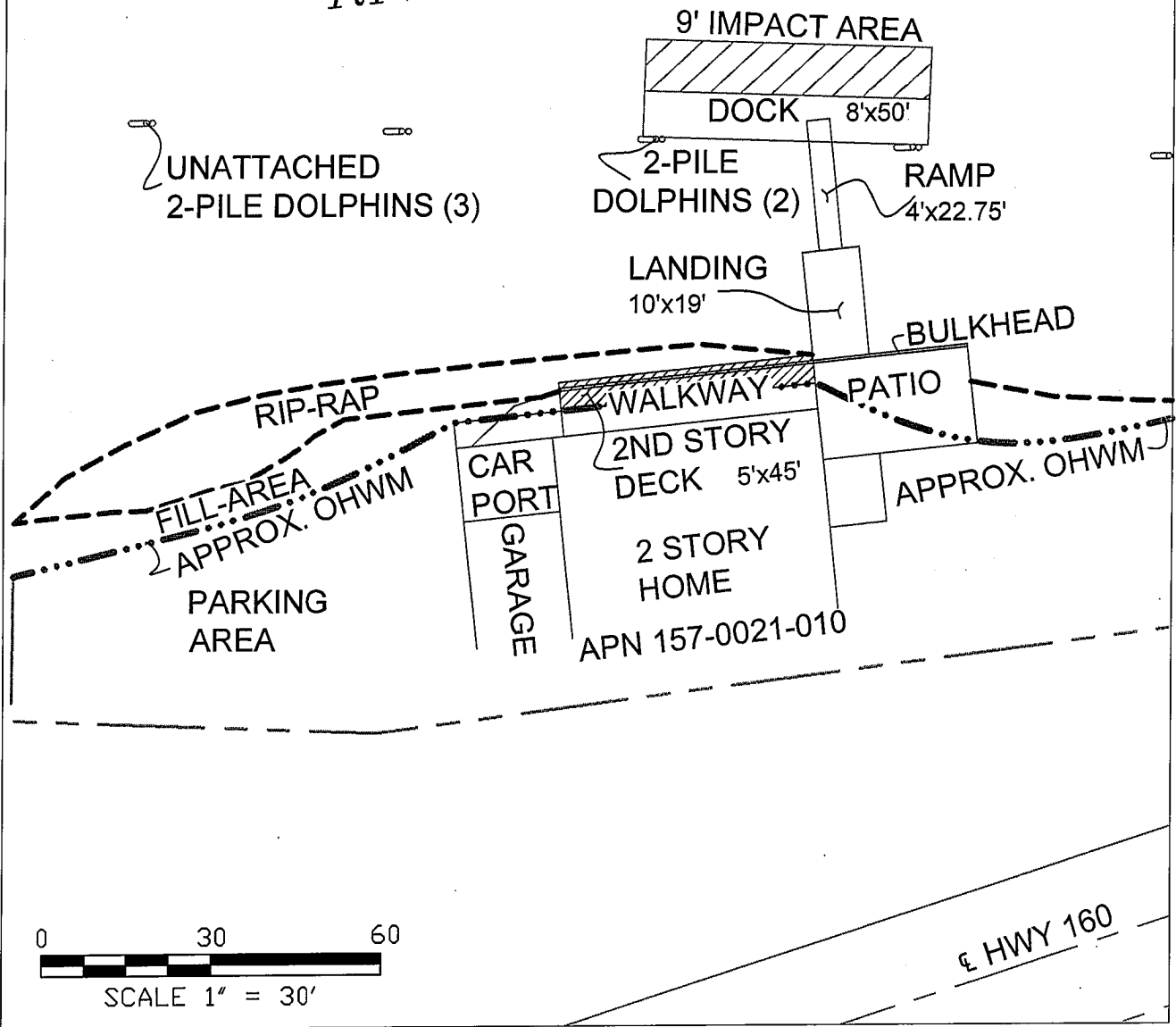


EXHIBIT A

LAND DESCRIPTION PLAT
PRC 4527.1, REISBECK
SACRAMENTO COUNTY

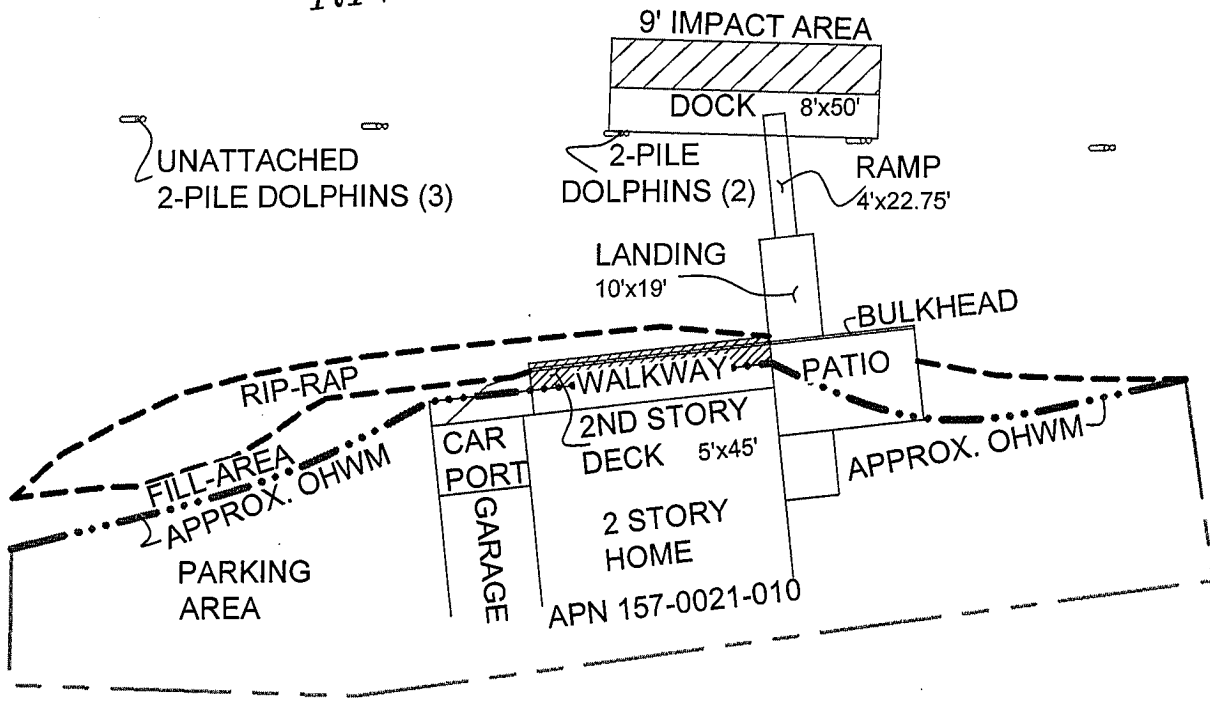
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

SACRAMENTO RIVER

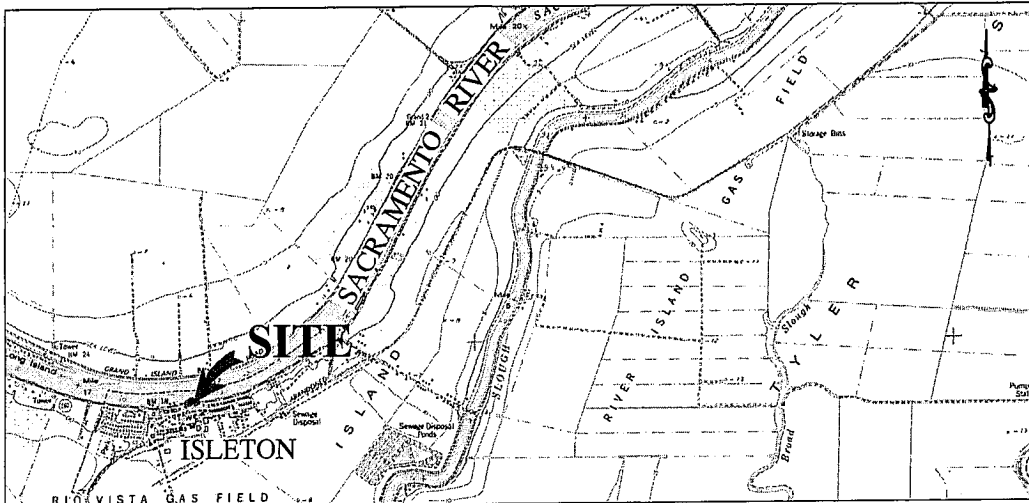


± HWY 160

411 2nd St. - Isleton

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 4527.1
 REISBECK
 APN 157-0021-010
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SACRAMENTO COUNTY



MJF 11/18/15

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.