

**CALENDAR ITEM
C10**

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02/09/16
PRC 8361.1
M. Schroeder

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

LESSEE:

Wesley Caswell and Georgia Anderson

APPLICANT:

Natasha V. Sumner and Nicole Del Prado

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Napa River, adjacent to 1300 Milton Road, city of Napa, Napa County.

AUTHORIZED USE:

Continued use and maintenance of two existing uncovered floating boat docks, ramp, six pilings, two 2-pile dolphins, and bank protection.

LEASE TERM:

10 years, beginning December 7, 2015.

CONSIDERATION:

Two Uncovered Floating Boat Docks, Ramp, Six Pilings, Two 2-Pile Dolphins: \$350 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.

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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).

Public Trust and State's Best Interests Analysis:

The two docks, ramp, six pilings, and two 2-pile dolphins (Subject Facilities) are for the docking and launching of boats. The Subject Facilities are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence. 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 (Public Resources Code Section 6503.5).

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The public may navigate next to, and at certain water levels, under the Subject Facilities.

The Subject Facilities have existed for many years at this location. The Subject 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 all improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the Subject Facilities will not substantially interfere with public trust needs at this location and 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.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On August 14, 2012, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Wesley Caswell and Georgia Anderson. That lease expires on August 13, 2022. On March 4, 2015, the upland was deeded to Natasha V. Sumner. Subsequently, on December 7, 2015, Nicole Del Prado was added to the grant deed for the upland. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use.
3. Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the property without executing a quitclaim deed.
4. The bank protection will mutually benefit both the public and the Applicant. The bank of the Napa River will have additional protection for the river channel from wave action provided at no cost to the public.
5. This proposed 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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
6. 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).

7. 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.

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8. 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 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).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that issuance of the lease is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

PUBLIC TRUST AND STATE'S BEST INTERESTS FINDING:

Find that the proposed lease will not substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination, effective December 6, 2015, of Lease No. PRC 8361.1, a General Lease – Recreational and Protective Structure Use, issued to Wesley Caswell and Georgia Anderson.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Natasha V. Sumner and Nicole Del Prado beginning December 7, 2015, for a term of 10 years, for the continued use and maintenance of two existing uncovered floating boat docks, ramp, six pilings, two 2-pile dolphins, and bank protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a

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part hereof; consideration for the two existing uncovered floating boat docks, ramp, six pilings, and two 2-pile dolphins: \$350 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 8361.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Napa River, lying adjacent to Swamp and Overflowed Land Survey 76 patented June 9, 1887, County of Napa, State of California and more particularly described as follows:

All those lands underlying two (2) existing uncovered floating boat docks, ramp, two (2) two-pile dolphins and six (6) pilings lying adjacent to the right bank of said river and being adjacent to and easterly of that those parcels of land as described in "Exhibit A" of that Grant Deed, recorded December 7, 2015 in Document Number 2015-0029905 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.

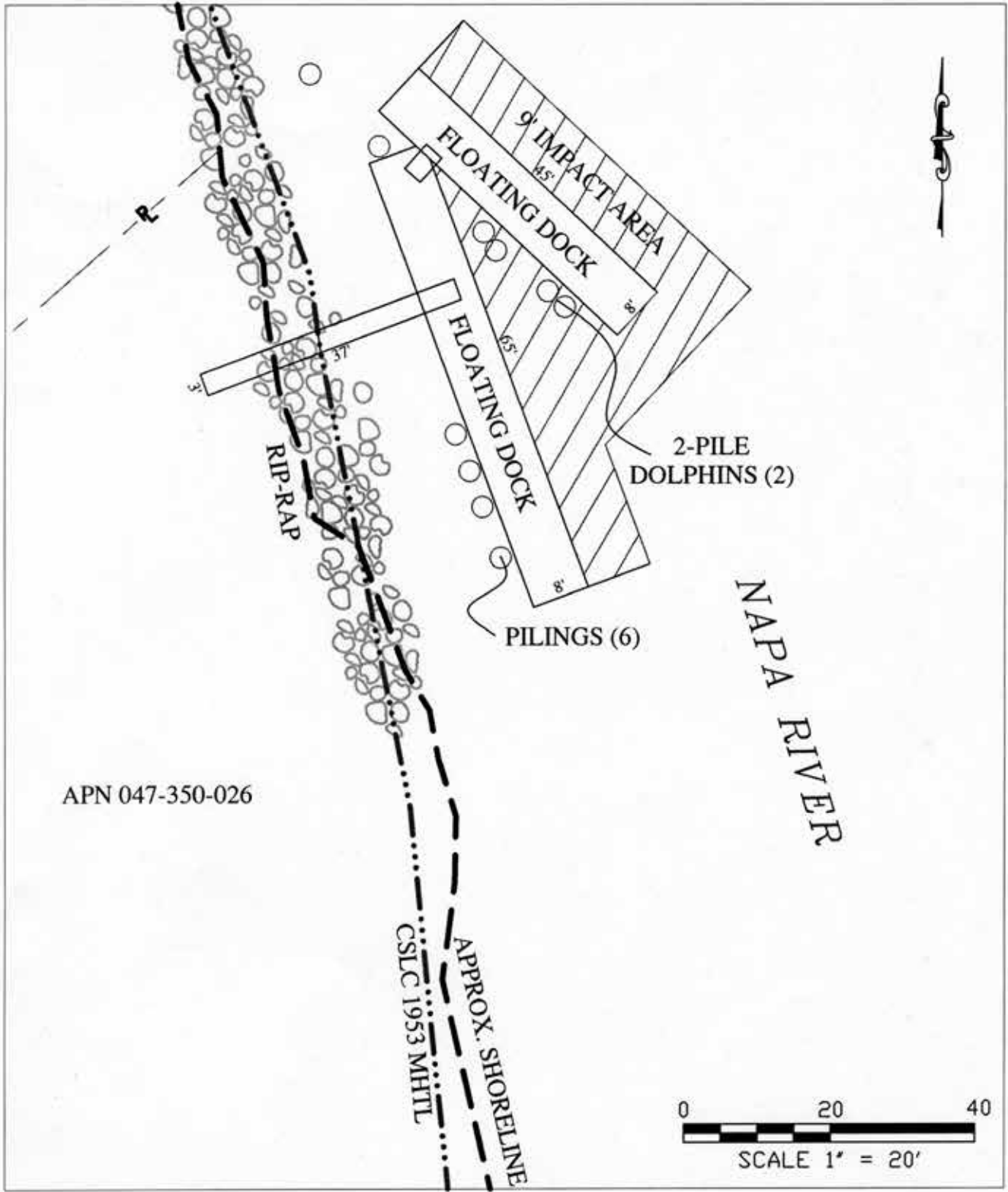
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 12/30/15 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





APN 047-350-026

NAPA RIVER

EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 8361.1, SUMNER & DEL PRADO
 NAPA COUNTY

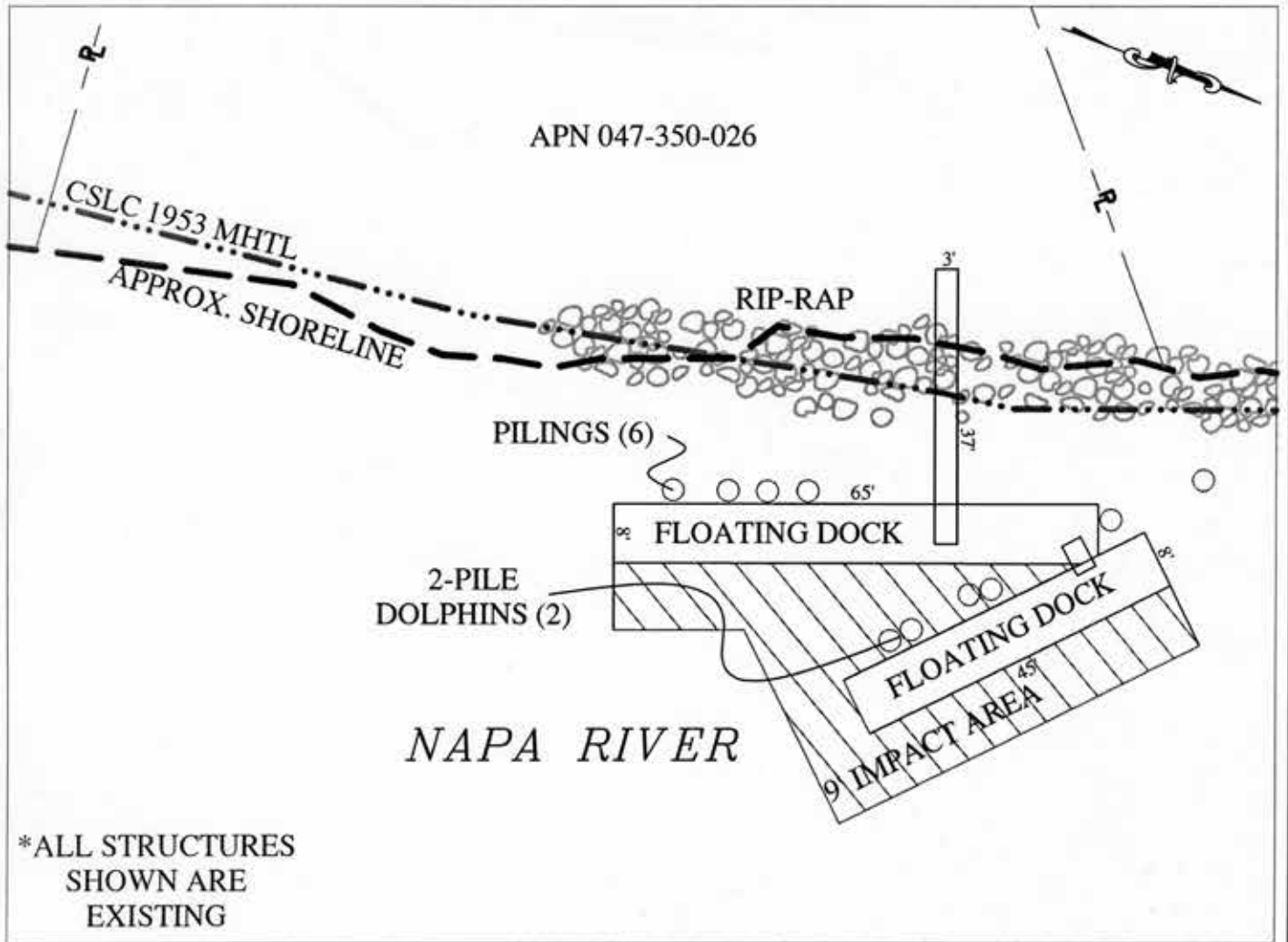
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

APN 047-350-026



*ALL STRUCTURES SHOWN ARE EXISTING

1300 Milton Road, Napa

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 8361.1
 SUMNER & DEL PRADO
 APN 047-350-026
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 NAPA COUNTY



MJF 12/30/15