

**CALENDAR ITEM  
C18**

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02/09/16  
PRC 6998.1  
G. Asimakopoulos

**GENERAL LEASE – RECREATIONAL AND  
PROTECTIVE STRUCTURE USE**

**APPLICANT:**

Michael Kevin McRae

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in the Sacramento River, adjacent to 4559 Garden Highway, city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing uncovered floating boat dock, gangway, ramp, one piling, two two-pile dolphins, and bank protection.

**LEASE TERM:**

10 years, beginning August 28, 2016.

**CONSIDERATION:**

**Uncovered Floating Dock, Gangway, Ramp, One Piling, and Two Two-Pile Dolphins:** \$214 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:**

**Statutory Authority:**

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

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**Public Trust and State's Best Interests Analysis:**

The subject dock and authorized appurtenant facilities are 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 (Public 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.

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, for the foreseeable term of the proposed lease.

The bank protection is consistent with the common law public trust doctrine because it serves as an aid to navigation by providing reinforced structural support to the banks of the waterway and limiting potentially harmful erosion of the bank into the waterway. The bank protection also confers benefits to the upland owner by ensuring sufficient sub lateral support to the adjoining property. Like the dock and appurtenant facilities, the bank protection has existed for many years at this location and does not significantly alter the land or permanently alienate any State property interest. Based on the foregoing, Commission staff believes that the bank protection is consistent with the public trust doctrine. In the alternative, Commission staff believes that the bank protection will not substantially interfere with the public trust needs at this location 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. For all the reasons above, Commission staff believes the

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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 August 24, 2006, the Commission authorized a General Lease – Recreational and Protective Structure Use to Michael Kevin McRae. That lease will expire on August 27, 2016. Subsequently, on March 25, 2008, the Commission authorized an Amendment of Lease for the placement of an additional 100 cubic yards of bank protection. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use.
3. Staff recommends the issuance of this lease, as it promotes 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.
4. The 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

CALENDAR ITEM NO. **C18** (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).

**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 Michael Kevin McRae beginning August 28, 2016, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock, gangway, ramp, one piling, two two-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 part hereof; consideration for the uncovered floating boat dock, gangway, ramp, one piling, and two two-pile dolphins: \$214 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 6998.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 194, patented July 11, 1865, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, ramp, gangway, one piling and two two-pile dolphins lying adjacent to those parcels described in Interspousal Transfer Deed, recorded July 1, 2003 in Book 20030701 at Page 0804 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 parcels.

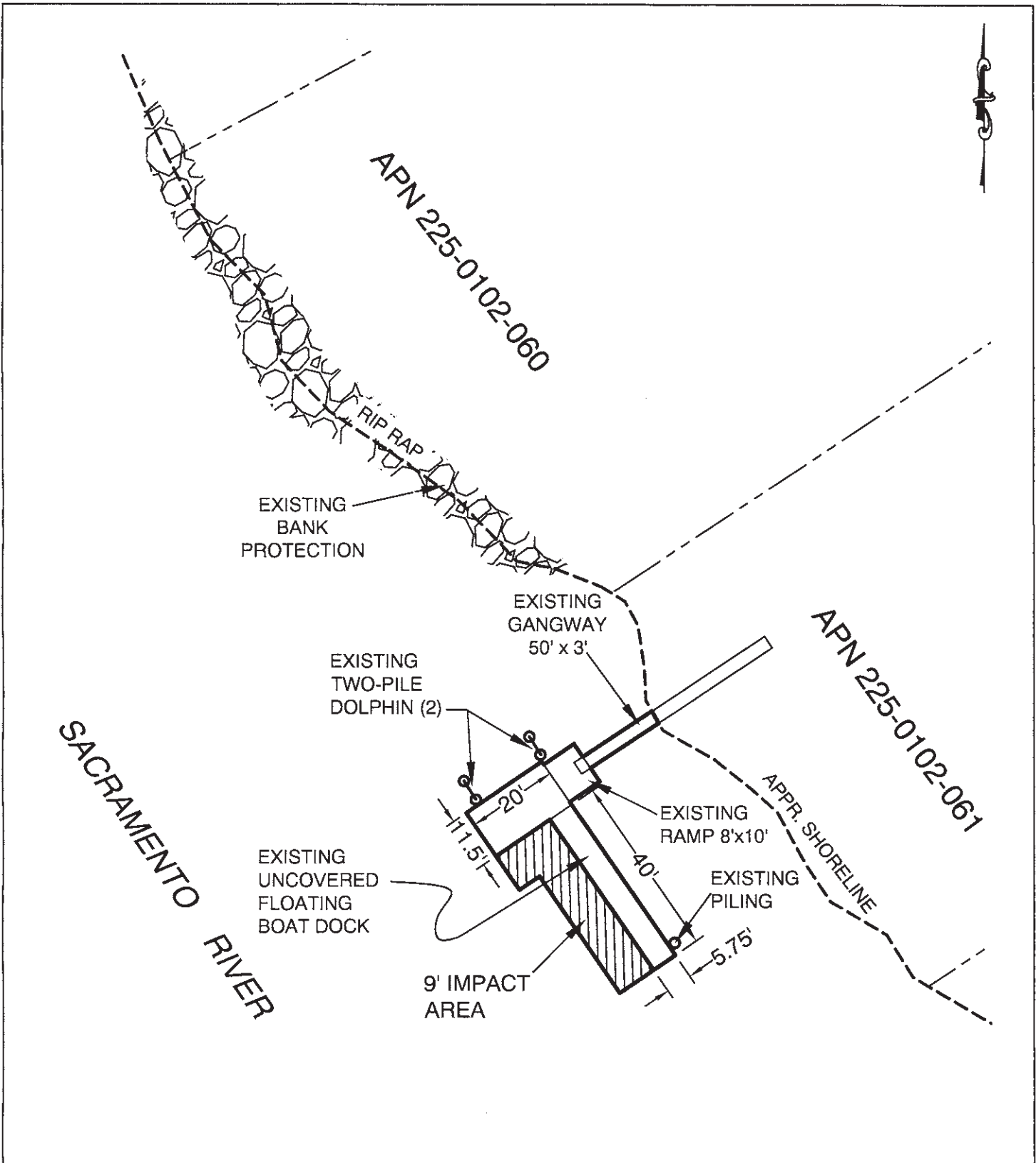
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 08/19/15 by the California State Lands Commission Boundary Unit





# EXHIBIT A

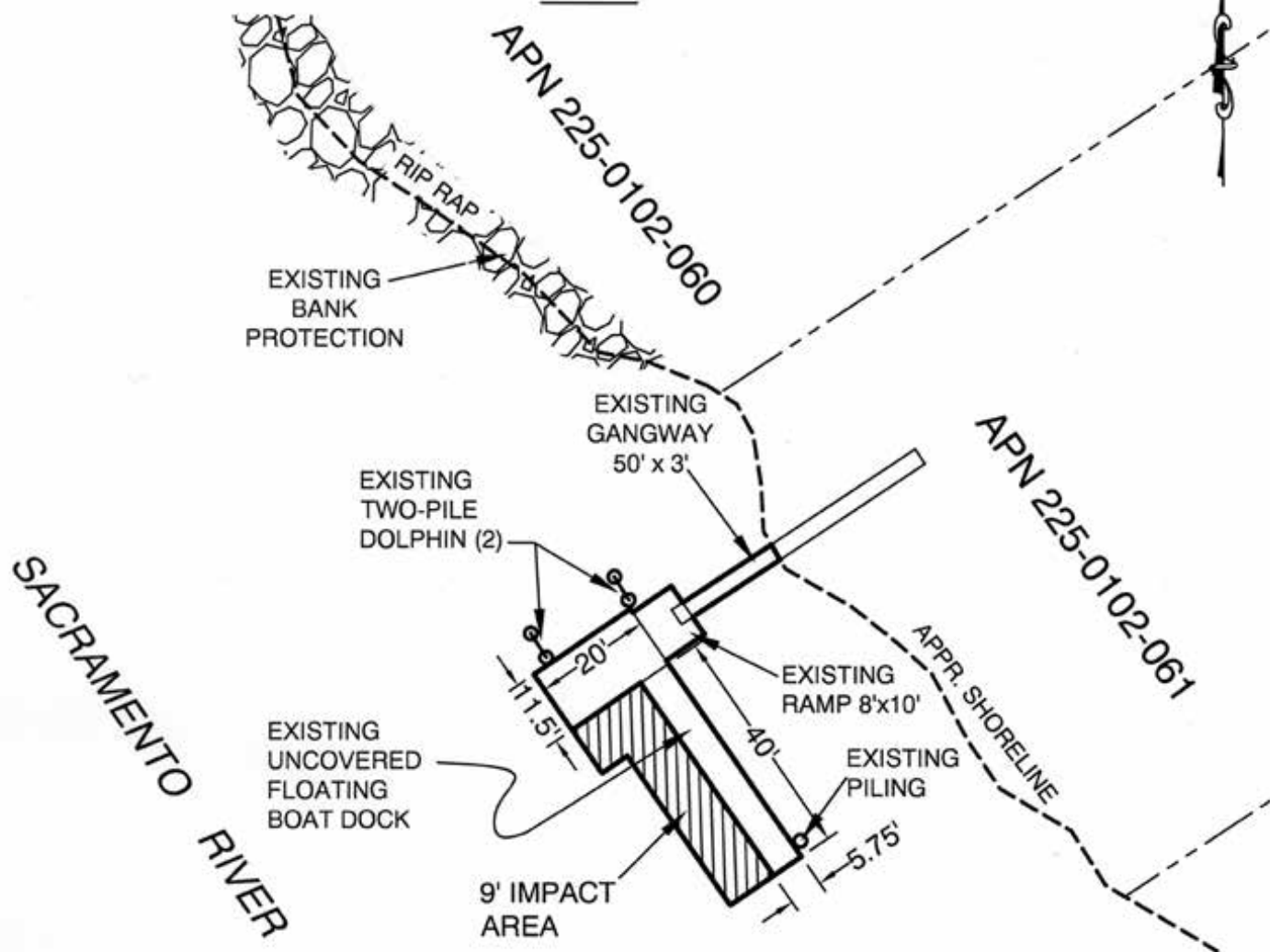
LAND DESCRIPTION PLAT  
 PRC 6998.1, MCRAE  
 SACRAMENTO COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

### SITE



4559 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### Exhibit B

PRC 6998.1  
 MCRAE  
 APNs 225-0102-060 & 061  
 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.