

CALENDAR ITEM
C13

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06/21/13
PRC 5042.9
V. Caldwell

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

LESSEES:

Jim Frayser, Trustee of the James H. Frayser 1992 Revocable Trust, and Judy Deville

APPLICANT:

Bernard E. Scoville

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 2395 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing single-berth uncovered floating boat dock, wood dolphin, 11 wood pilings, gangway, and bank protection.

LEASE TERM:

10 years, beginning October 19, 2012.

CONSIDERATION:

Single-Berth Uncovered Floating Boat Dock, Wood Dolphin, 11 Wood Pilings, and Gangway: \$577 per year, with the State reserving the right to fix a different rent periodically during the lease term, 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.

SPECIFIC LEASE PROVISIONS:

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

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OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On November 26, 2001, the Commission authorized a 10-year Recreational Pier Lease, Lease No. PRC 5042.9, to Jim Frayser, Trustee of the James H. Frayser 1992 Revocable Trust, and Judy Deville for an existing uncovered floating boat dock, gangway, and pilings adjacent to 2395 Garden Highway. The lease expired on December 15, 2010.
3. On February 9, 2006, the Commission authorized a 25-year General Lease - Protective Structure Use, Lease No. PRC 5042.9 A, to Jim Frayser, Trustee of the James H. Frayser 1992 Revocable Trust, and Judy Deville for bank protection. The lease will expire on May 31, 2031.
4. In 2007, the above Lessees sold the upland property associated with the above leases and staff made several attempts to bring the new owners under lease, but were not successful. On October 19, 2012, as a result of a foreclosure, the upland property was transferred to Bernard E. Scoville.
5. The Applicant is now applying to combine the two leases into a single lease for the continued use and maintenance of an existing single-berth uncovered floating boat dock, wood dolphin, 11 wood pilings, gangway, and bank protection. Staff is recommending termination of Lease No. PRC 5042.9 A, because the Lessees have abandoned the lease through the sale of the upland property without executing a quitclaim deed. Lease No. PRC 5042.9 has expired.
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.
7. **Termination of Lease:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project 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.

8. **Issuance of Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1,

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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. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Termination of Lease: Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of Lease: 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:

1. Authorize termination, effective October 18, 2012, of Lease No. PRC 5042.9-A, a General Lease – Protective Structure Use, issued to Jim Frayser, Trustee of the James H. Frayser 1992 Revocable Trust, and Judy Deville.

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2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Bernard E. Scoville, beginning October 19, 2012, for a term of 10 years, for the continued use and maintenance of an existing single-berth uncovered floating boat dock, wood dolphin, 11 wood pilings, gangway, 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 existing single-berth uncovered floating boat dock, wood dolphin, 11 wood pilings, and gangway: annual rent in the amount of \$577, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; consideration for the bank protection: the public use and benefit with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5042.1

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 828, patented April 5, 1869, County of Sacramento, State of California and more particularly described as follows:

PARCEL 1 – Dock

All those lands underlying an existing single berth dock, gangway, dolphin and one (1) piling lying adjacent to that parcel as described in Grant Deed, recorded October 19, 2012 in Book 20121019 at Page 857 in Official Records of said County.

TOGETHER WITH a 10 foot impact area.

PARCEL 2 – Pilings

All those lands underlying ten (10) existing pilings lying adjacent to said parcel.

TOGETHER WITH all those lands lying immediately beneath any existing bank protection structure adjacent to said parcel.

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 04/19/13 by the California State Lands Commission Boundary Unit



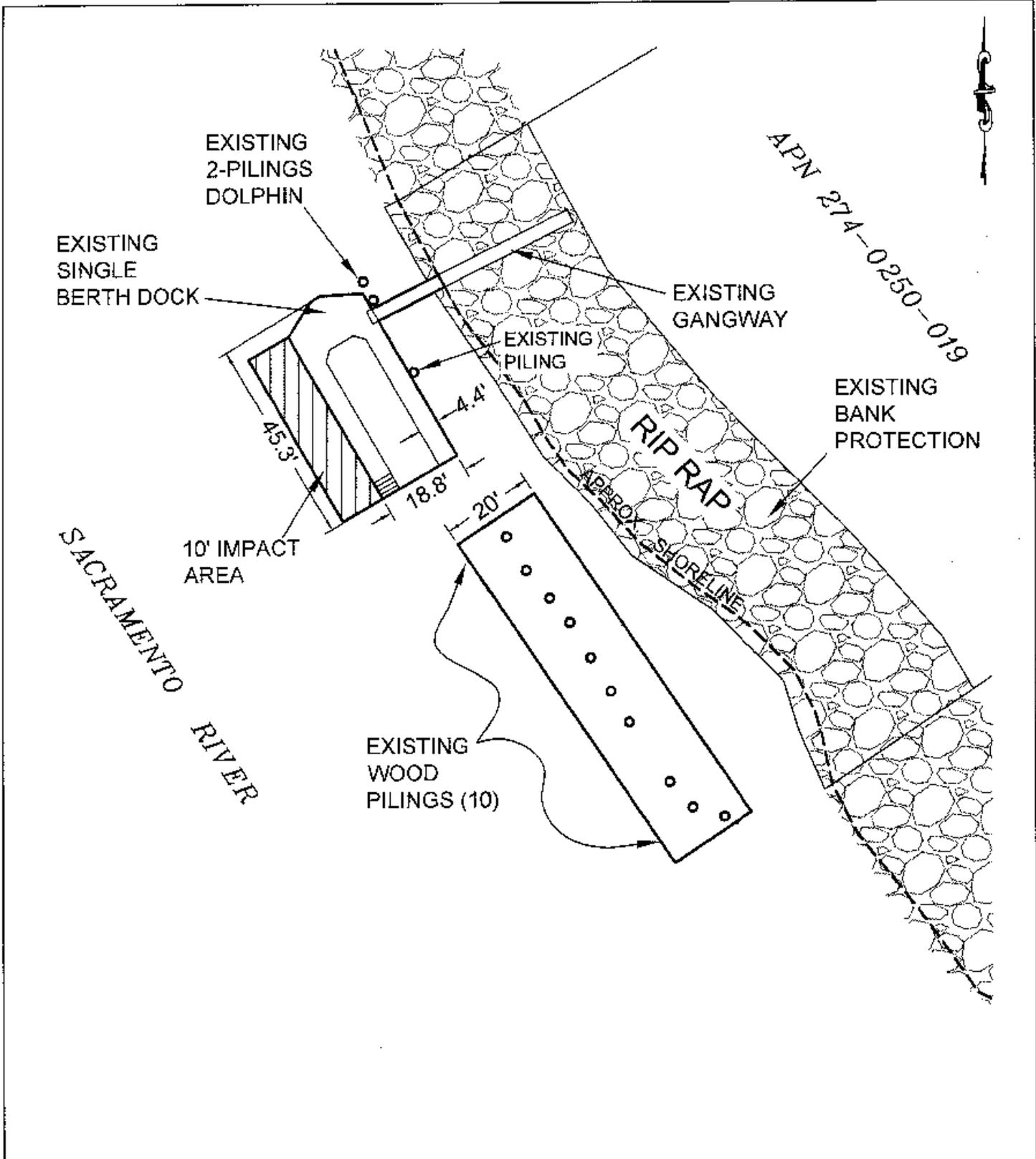


EXHIBIT A

LAND DESCRIPTION PLAT
 PRC 5042.1, SCOVILLE
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



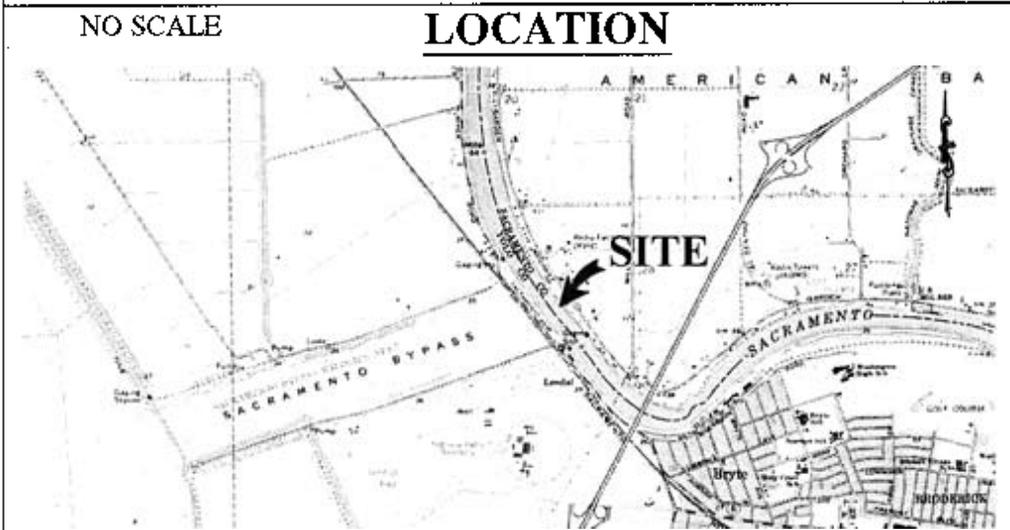
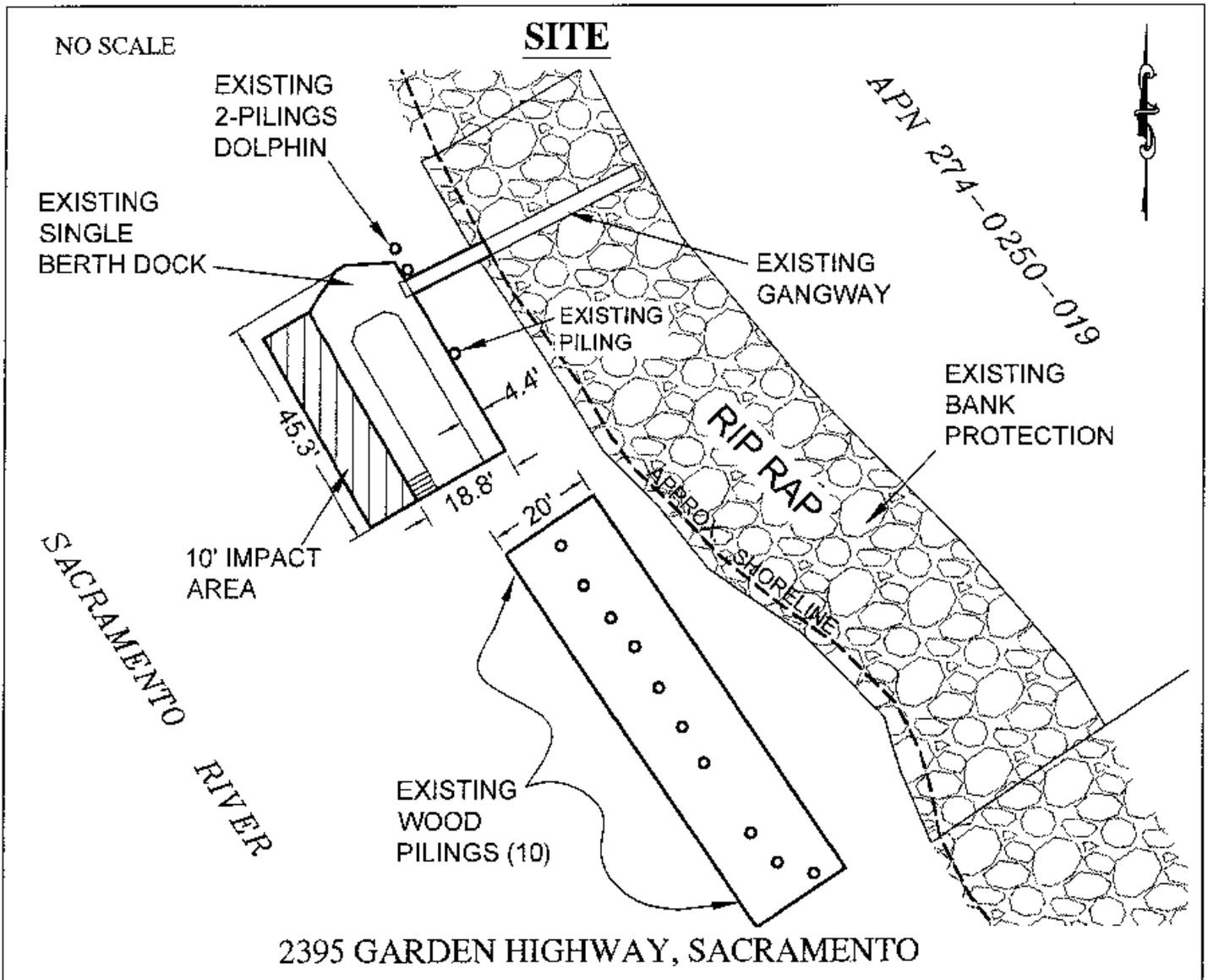


Exhibit B

PRC 5042.1
 SCOVILLE
 APN 274-0250-019
 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.