

**STAFF REPORT
C35**

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S 6

04/05/19
W 27164
G. Asimakopoulos

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Jason Kuechler

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 658 Riverlake Way, near Sacramento, Sacramento County.

AUTHORIZED USE:

Construction, use, and maintenance of a single-berth floating boat dock, gangway, and three pilings.

LEASE TERM:

10 years, beginning April 5, 2019

CONSIDERATION:

\$209 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee agrees that should Lessor or the City of Sacramento obtain necessary rights or permission from other property owners along the Sacramento River authorizing public access along the river bank or levee between the east and west ends of Riverlake Way, Sacramento, California, that Lessee will also allow reasonable public access across the bank or levee on Lessee's property.
3. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease premises.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On February 16, 2018, an application was submitted for a General Lease – Recreational Use, for the proposed construction, use, and maintenance of a single-berth floating boat dock, gangway, and three pilings in the Sacramento River.

The proposed facilities are designed for recreational boating purposes and will be located adjacent to the Applicant's upland property. Recreational boating is a water-dependent activity 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 (Pub. Resources Code, § 6503.5).

The proposed facilities will not significantly alter the land, the lease will not alienate the State's fee simple interest and will not permanently impair public rights or restrict access. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

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. Because the final placement of the facilities may be different based on conditions at the time of installation, staff recommends that the Commission delegate to the Executive Officer or her designee the authority to amend the proposed lease and exhibits, if necessary, to accurately reflect the final location and configuration of improvements.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located on the Sacramento River, in a tidally influenced site vulnerable to flooding at current sea levels and at higher risk of flood exposure given projected scenarios of sea-level rise. The proposed new structures for this

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lease area include a single-berth floating boat dock, adjustable gangway, fixed landing, and three steel pilings.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

This effect could increase Sacramento River’s inundation levels within the lease area. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the

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channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the pilings. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The single-berth floating dock and gangway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, and increasing their resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued functionality, during and after storm seasons and to avoid dislodgement of the dock facilities. The fixed features, such as the landing and the three steel pilings, may need reinforcement to withstand higher levels of flood exposure. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

The vegetated bank (not within the lease area) provides additional stability and reduces the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system; but remains at risk of accelerated deterioration from currents and floods.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This 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.
2. 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 3,

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New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
National Marine Fisheries Service
California Department of Fish and Wildlife
Central Valley Flood Protection Board
Central Valley Regional Water Quality Control Board

EXHIBITS:

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

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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 5, 2019, for a term of 10 years, for the construction, use, and maintenance of a single-berth floating boat dock, gangway, and three pilings, as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$209 per year, with an

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annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

2. Delegate to the Executive Officer or her designee, the authority to amend the lease and exhibits, if necessary, to accurately reflect the authorized facilities' final location.

EXHIBIT A

W 27164

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 160 patented April 14, 1876, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying a proposed single-berth floating boat dock, gangway and three pilings lying adjacent to those parcels described in Grant Deed, recorded August 15, 2014 in Book 20140815 at Page 1083 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

This description is based on Applicant provided design plan for a proposed dock, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

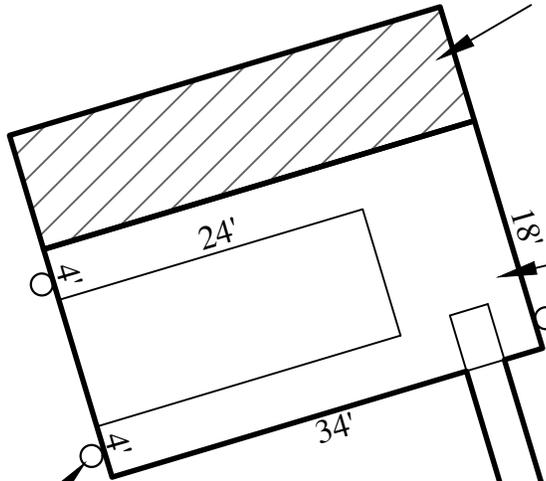
Prepared 01/28/2019 by the California State Lands Commission Boundary Unit



SACRAMENTO RIVER



9' IMPACT AREA



PROPOSED SINGLE-BERTH FLOATING BOAT DOCK

PROPOSED PILING (3)

APPROX. SHORELINE

PROPOSED GANGWAY
3' x 56'

APN 030-0401-015

EXHIBIT A

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LAND DESCRIPTION PLAT
W 27164, KUECHLER
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

SACRAMENTO RIVER

9' IMPACT AREA

PROPOSED SINGLE-BERTH FLOATING BOAT DOCK

PROPOSED PILING (3)

APPROX. SHORELINE

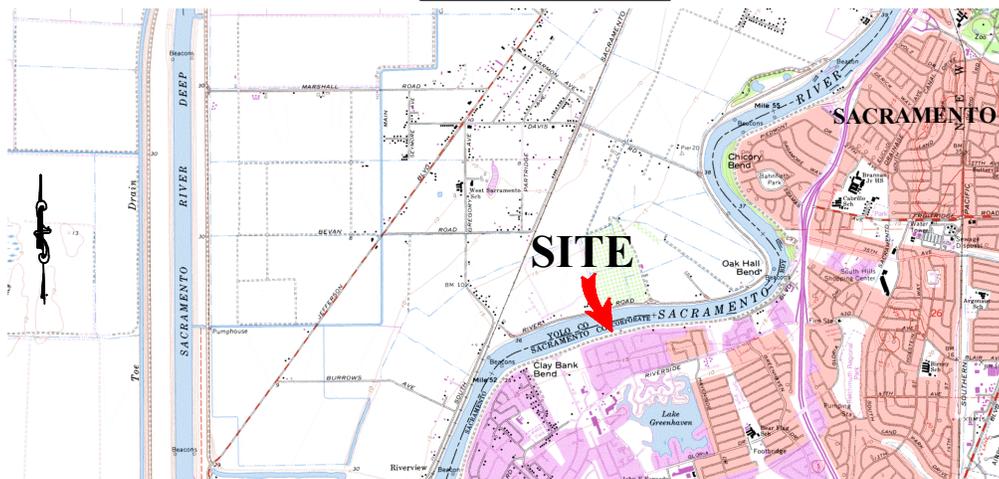
PROPOSED GANGWAY
3' x 56'

APN 030-0401-015

658 RIVERLAKE WAY, SACRAMENTO

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

W 27164
KUECHLER
APN 030-0401-015
GENERAL LEASE-
RECREATIONAL USE
SACRAMENTO COUNTY



TS 01/28/19