

**CALENDAR ITEM
C33**

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PRC 4783.1

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GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Joseph R. Sutton, as Trustee of the Joseph R. Sutton Qualified Personal Residence Trust dated April 4, 2011, and Suzette A. Sutton, as Trustee of the Suzette A. Sutton Qualified Personal Residence Trust dated April 4, 2011

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 17456 Grand Island Road, near Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing fishing pier, floating boat dock, two pilings, and bank protection.

LEASE TERM:

10 years, beginning December 1, 2016.

CONSIDERATION:

Fishing pier, floating boat dock, and two pilings: \$125 per year, with an annual Consumer Price Index adjustment.

Bank protection: 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:

Insurance:

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

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On December 14, 2006, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to The Joseph and Suzette Sutton Family Trust UDT June 10, 1996 FBO The Sutton Family, Joseph R. Sutton and Suzette Anne Sutton, Co-Trustees ([Calendar Item 37, December 14, 2006](#)). That lease expires on November 30, 2016. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the existing improvements. The subject improvements are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The subject fishing pier, dock and appurtenant facilities are for fishing and the docking and mooring of boats. Recreational boating and fishing are water-dependent and 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 fishing pier, 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. 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. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

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 slough channel, which will help protect the Public Trust resources and values for recreational and navigational purposes by the public.

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Sea Level Rise

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. As noted above, the proposed lease area contains a fishing pier, floating boat dock, two pilings, and a bank stabilization structure, all associated with a residential home and all of which could be impacted by sea-level rise and climate change processes. The existing structures lie along the Sacramento River, in a region that has been identified as tidally-influenced and is therefore likely to experience an increase in permanent inundation due to projected sea-level rise over the next century. Other potential climate change related impacts could also impact the lease area, as summarized below.

- Storm surges. In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Climate change will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure, and could cause structures to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel.
- Increased runoff. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall.
- Drought. Prolonged drought conditions could lower water levels and expose previously submerged portions of the structures to the elements, potentially leading to increased wear and tear. Drought conditions could also reduce navigability of the channel thereby increasing hazards, and impact the function and utility of the lease area structures.

For the structures within the proposed lease area, the floating nature of the boat dock will allow it to rise and fall with storms and droughts, increasing its resiliency to some climate change impacts. The fixed pier

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and pilings may need to be reinforced or heightened to withstand future conditions including scour during flooding and exposure to the elements during drought. Additional bank stabilization, such as increasing the height of the rock wall or bank restoration, may be required to prevent erosion of the bank and damage to the lease area structures, as well as upland property. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland 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 is consistent with the common law Public Trust Doctrine and will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, 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 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.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

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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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, or 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.

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 Joseph R. Sutton, as Trustee of the Joseph R. Sutton Qualified Personal Residence Trust dated April 4, 2011, and Suzette A. Sutton, as Trustee of the Suzette A. Sutton Qualified Personal Residence Trust dated April 4, 2011; beginning December 1, 2016, for a term of 10 years, for the continued use and maintenance of an existing fishing pier, floating boat dock, two pilings, 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 fishing pier, floating boat dock and two pilings: \$125 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 4783.1

LAND DESCRIPTION

Two parcels of tide and submerged land situate adjacent to that adjudicated boundary along the right bank of the Sacramento River as set forth in SCC 78345, Rosellini V. State (AD 158), Sacramento County, State of California, more particularly described as follows:

PARCEL 1 – FISHING PIER

All those lands underlying an existing fishing pier lying adjacent to that parcel as described in Exhibit A in that Grant Deed recorded April 8, 2011, in Book 20110408, Page 860 of Official Records of said County..

PARCEL 2 – DOCK

All those lands underlying an existing floating boat dock with two (2) pilings lying adjacent to said parcel.

TOGETHER WITH any applicable impact area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure lying adjacent to said parcel.

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the right bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 24, 2016 by
the California State Lands Commission Boundary Unit.



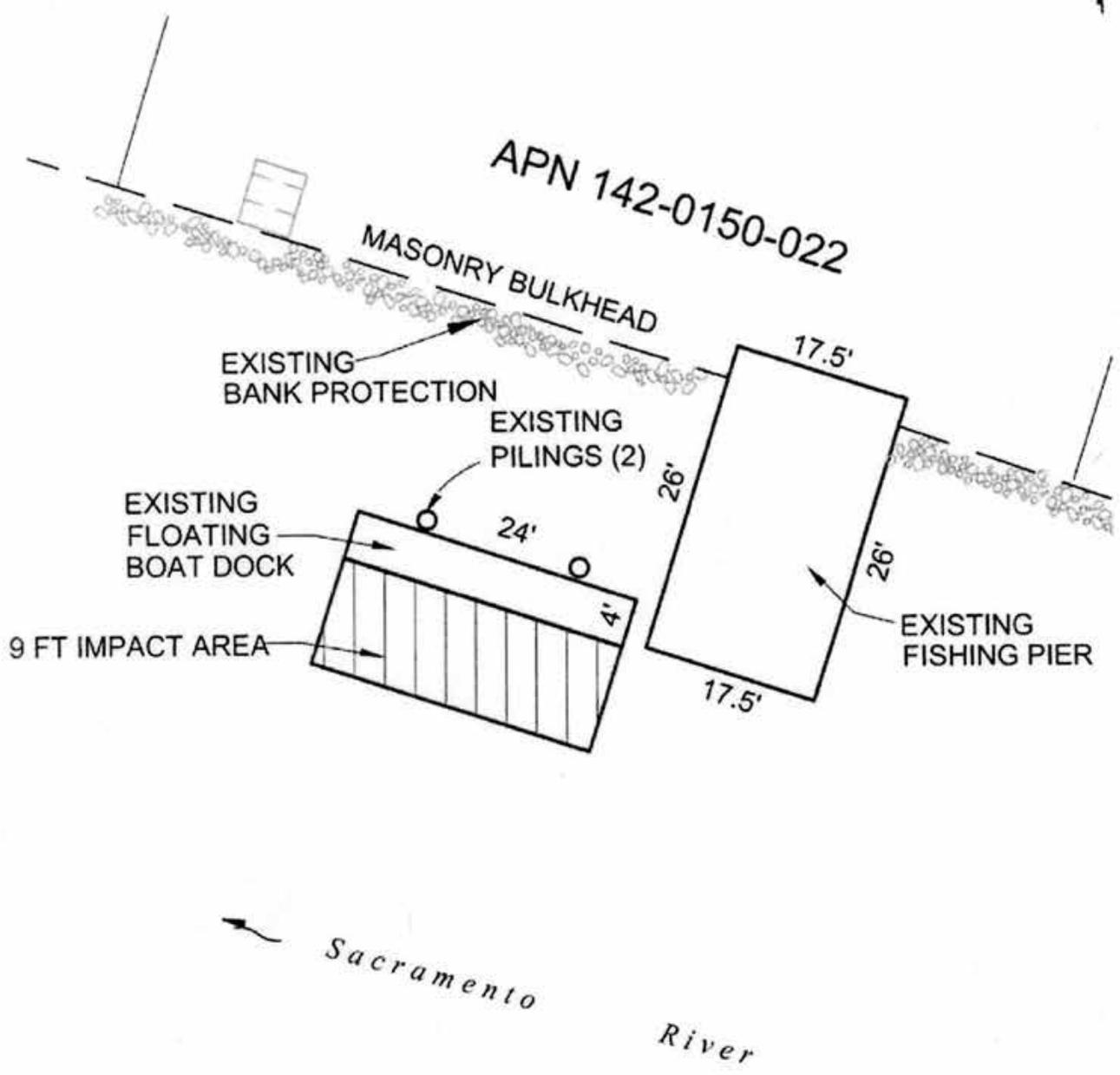


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 4783.1, SUTTON
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



