

**CALENDAR ITEM  
C27**

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PRC 7699.1  
G. Asimakopoulos

**GENERAL LEASE – COMMERCIAL USE**

**APPLICANT:**

Bradley H. Smith, Trustee of the Smith Family 2001 Trust, UTD August 13, 2001

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the San Joaquin River, adjacent to 822 West Brannan Island Road, on Andrus Island, near Isleton, Sacramento County.

*AUTHORIZED USE:*

Continued use, maintenance, and operation of an existing commercial marina, known as Easy C's Boat Sales and Marina, consisting of 12 covered berths, and pilings.

*LEASE TERM:*

20 years, beginning July 19, 2016.

*CONSIDERATION:*

\$902 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

*SPECIFIC LEASE PROVISIONS:*

Insurance: Liability insurance in an amount no less than \$2,000,000 per occurrence.

Bond: \$20,000

Other: The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders/Guest Dock Users/Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

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

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

On July 19, 1993, the Commission authorized a 20-year General Lease – Commercial Use to Joe M. Cantrell and Iris Cantrell ([Calendar Item C07, July 19, 1993](#)). The lease authorized the operation of a commercial marina known as Easy C's Boat Sales and Marina. The authorized improvements consisted of 14-covered berths and one uncovered dock with pilings and a gangway on a lease area of 0.62 acre.

Subsequently, on April 9, 2002, the Commission authorized an assignment and amendment of the lease to Gail M. Frost and Kenneth Eugene Thomas ([Calendar Item C05, April 9, 2002](#)). The amendment included modifying the lease area from 0.62 acre to 0.44 acre to resolve a question about the boundary of the State's jurisdiction. As a result, the two most landward covered berths and the uncovered dock with pilings and a gangway are now excluded from the lease area, leaving the 12-covered berths (consisting of eight, 50-foot x 15-foot berths and four, 40-foot x 15-foot berths).

On December 9, 2004, the Commission authorized an assignment of the lease to Bradley H. Smith, Trustee of the Smith Family 2001 Trust, UTD August 13, 2001 ([Calendar Item C06, December 9, 2004](#)). The lease expired on July 18, 2013. From July 19, 2013 through July 18, 2016, the lease was in holdover, however, the Applicant continued to make its annual rental payments and continued to conform to the terms of the original lease. The Applicant is now applying for a General Lease – Commercial Use.

The subject commercial marina facilities accommodate, promote, and foster recreational boating and provide access to the adjacent State waterways. Recreational boating is a water-dependent use that 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 land (Pub. Resources Code, § 6503.5). The adjacent upland is privately owned.

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The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 20 years, and a non-exclusive use provision. The marina and appurtenant facilities have existed for many years at this location; they do not significantly alter the land; they do not permanently alienate the State's fee simple interest in the underlying land; and they do not permanently impair 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 marina facilities will not substantially interfere with Public Trust needs, at this location, 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.

**Climate Change Analysis:**

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 facilities within the proposed lease area are located on the San Joaquin River, at a tidally-influenced site vulnerable to flooding at current sea levels that will be at a higher risk of flood exposure given future projection scenarios of sea-level rise. The existing facilities associated with the marina include 14-covered floating berths, one uncovered dock with fixed pilings, and adjustable gangway. Sea-level rise coupled with other dynamic coastal processes and events such as scour, erosion, extreme tides and storm surge could pose increased flooding risks to the lease area.

By 2030, the coastal region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). These changes in sea level could lead to changes in the regular inundation levels within the lease area. Rising sea levels can lead to more frequent flooding in low lying areas and more dynamic tidal events. As stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). In rivers and tidally-influenced waterways, more frequent and powerful storms can

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result in increased flooding conditions and damage from storm created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow, as well as runoff, will likely increase scour and decreasing bank stability at a faster rate.

The combination of these projected conditions could potentially raise 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 structures to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels exposing previously submerged structures to the elements potentially leading to increased wear and tear on the pilings and berths, reduce navigability of the channel thereby increasing hazards, and impact the function and utility of the lease area structures.

The floating berths and adjustable 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 function during and after storm seasons and to avoid dislodgement of berth facilities. Power and water hookups, both in the lease area and inland, could become public safety hazards if exposed to flooding or are damaged. For all of these facilities, regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. In addition, under the terms of the proposed lease, the Applicant will be obligated to perform a structural assessment of the facilities on the fifth anniversary of the lease and conduct visual inspections at the end of each storm season.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change, including sea-level rise.

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**Conclusion:**

For all the reasons above, Commission staff believes the issuance of this 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, and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that issuance of the lease 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.

**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

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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 impair the public rights to navigation and fishing or substantially interfere with the 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.

**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 – Commercial Use to the Applicant, beginning July 19, 2016, for a term of 20 years, for the continued use, maintenance, and operation of an existing commercial marina known as Easy C's Boat Sales and Marina, consisting of 12-covered berths, and pilings, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$902, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond in the amount of \$20,000.

EXHIBIT A

PRC 7699.1

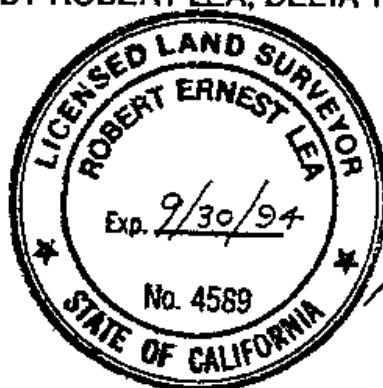
LAND DESCRIPTION

A parcel of tide and submerged land situate in the State owned bed of the San Joaquin River, adjacent to Andrus Island, in projected Section 13, T3N, R3E, M.D.M., Sacramento County, California, more particularly described as follows:

BEGINNING at the southeasterly corner of Lot 31 as shown on Plat of San Andreas Park recorded November 21, 1946 in Book 24 of Maps, Map 44 , records of Sacramento County; thence southwesterly along the southwesterly extension of the easterly line of said Lot 31 South 32°39' West 166.00 feet; thence North 54°13'31" West 198.82 feet to a point on the southwesterly extension of the westerly line of Lot 34 of said San Andreas Park; thence northeasterly along the said southwesterly extension North 32°39' East 160.00 feet to the southwesterly corner of said lot 34; thence South 51°34'00" East 141.24 feet; thence South 66°33'00" East 58.76 feet to the true point of beginning.

END OF DESCRIPTION

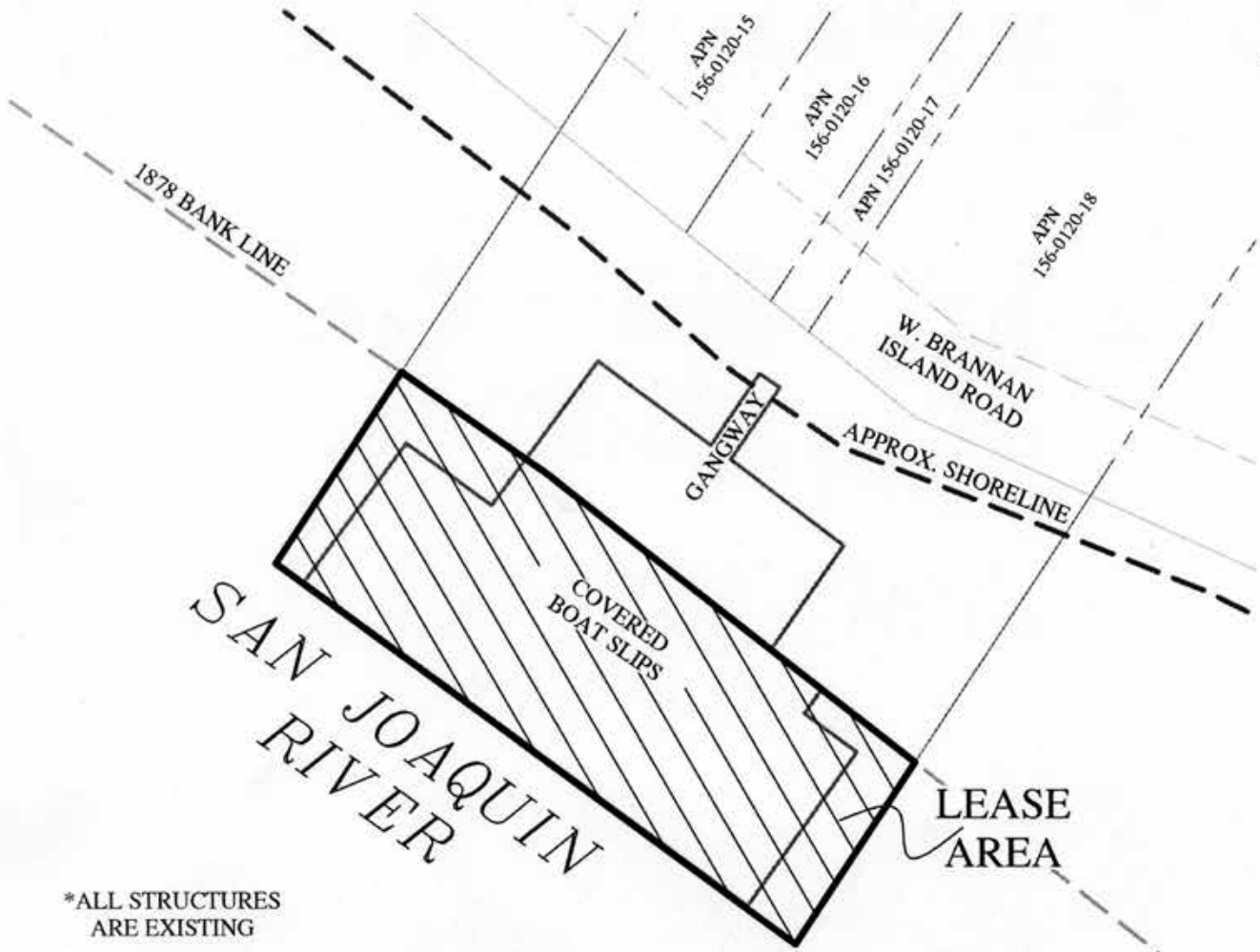
PREPARED APRIL 21, 1993 BY ROBERT LEA, DELTA TEAM BOUNDARY OFFICER



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NO SCALE

## SITE

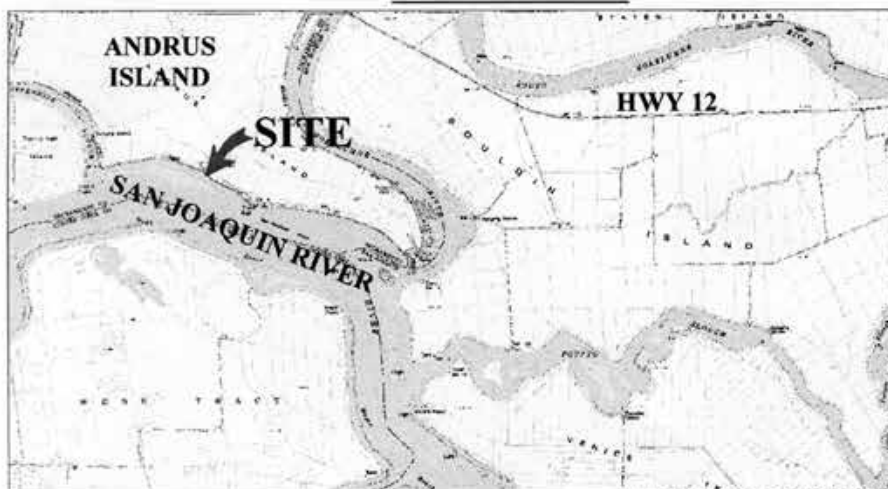


\*ALL STRUCTURES  
ARE EXISTING

822 W. Brannan Island Road

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 7699.1  
SMITH FAMILY 2001 TRUST  
APN 156-0120-015,016,017,018  
GENERAL LEASE -  
COMMERCIAL USE  
SACRAMENTO COUNTY



MDJ 3/21/17