

**CALENDAR ITEM
C35**

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06/22/17
PRC 5381.1
J. Holt

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Lawrence H. Cassidy

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 1963 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock, covered boathouse, sundeck, seven pilings, two-pile dolphin, ramp, and bank protection.

LEASE TERM:

10 years, beginning August 27, 2017.

CONSIDERATION:

Floating boat dock, covered boathouse, sundeck, seven pilings, two-pile dolphin, and ramp: \$555 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:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.
3. Restrictions on the expansion or rebuild of the sundeck if substantially destroyed.

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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 May 10, 2007, the Commission authorized a General Lease – Recreational and Protective Structure Use to Lawrence H. Cassidy. ([Calendar Item C29, May 10, 2007](#)). That lease will expire on August 26, 2017. The Applicant is now applying for a new lease, authorizing continued use and maintenance of existing facilities.

The proposed lease contains the same facilities as the current lease, which consist of a floating boat dock, covered boathouse, sundeck, appurtenant facilities, and bank protection. With exception of the sundeck, these facilities are used for boating and shoreline protection. 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 sundeck is not associated with traditional Public Trust uses. While new sundecks are generally disfavored, sundecks that have been in place for years have been permitted, if, as in this instance, they do not significantly interfere with Public Trust needs. The sundeck is located on top of the boathouse, and does not interfere with the public right of navigation or access beyond the footprint of the existing boathouse. However, the lease contains provisions that the sundeck may not be expanded or rebuilt if substantially destroyed.

The subject 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 existing 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 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. It requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of

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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 Sacramento River channel, which will help protect the Public Trust resources of the Sacramento River for recreational and navigational purposes by the public.

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 in the Sacramento River, which is a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area would be at a higher risk of flood exposure given future projection scenarios of sea-level rise. The lease area includes the following existing facilities: a floating boat dock, floating boathouse, floating sundeck, seven fixed pilings, floating fixed two-pile dolphin, adjustable ramp, and fixed bank protection.

By 2030, California's coast 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). This effect could increase the Sacramento River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. In addition, 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).

Climate change could have a number of impacts for this region. 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 forecast is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. 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. Conversely, climate-change

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induced droughts could decrease river levels and flow for extended periods of time. 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 will likely increase scour, decreasing bank stability and structure.

The potential for more frequent and stronger storm events may expose the lease area 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 pilings, reduce navigability of the channel, thereby increasing hazards and impacting the functionality and utility of the lease area structures.

The adjacent shoreline has riprap bank protection, which provides stability and reduces the amount of erosion and scour pressure it may experience during future events; but, the shoreline remains at risk of accelerated deterioration from currents and floods. Additional bank protection may be required to protect the anchoring points of the other lease premise structures and reduce flood impacts to the upland parcel (not within the lease area). Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

The combination of these projected conditions could increase the likelihood to damage structures within the lease area during the term of the lease. The floating boat dock, covered boathouse, floating sundeck, and adjustable ramp 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 these structures may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

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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 categorical 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 this 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.

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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 the Applicant beginning August 27, 2017, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, covered boathouse, sundeck, seven pilings, two-pile dolphin, ramp, 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 floating boat dock, covered boathouse, sundeck, seven pilings, two-pile dolphin, and ramp: \$555 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 5381.1

LAND DESCRIPTION

One (1) parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflowed Lands Survey 264 patented February 1, 1866 County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, covered boat house, sundeck, ramp, seven pilings and a 2-pile dolphin adjacent to those parcels as described in that Grant Deed recorded October 29, 1997 in Document 1997 08290168, Official Records of said County.

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 Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 4, 2017 by the California State Lands Commission Boundary Unit.



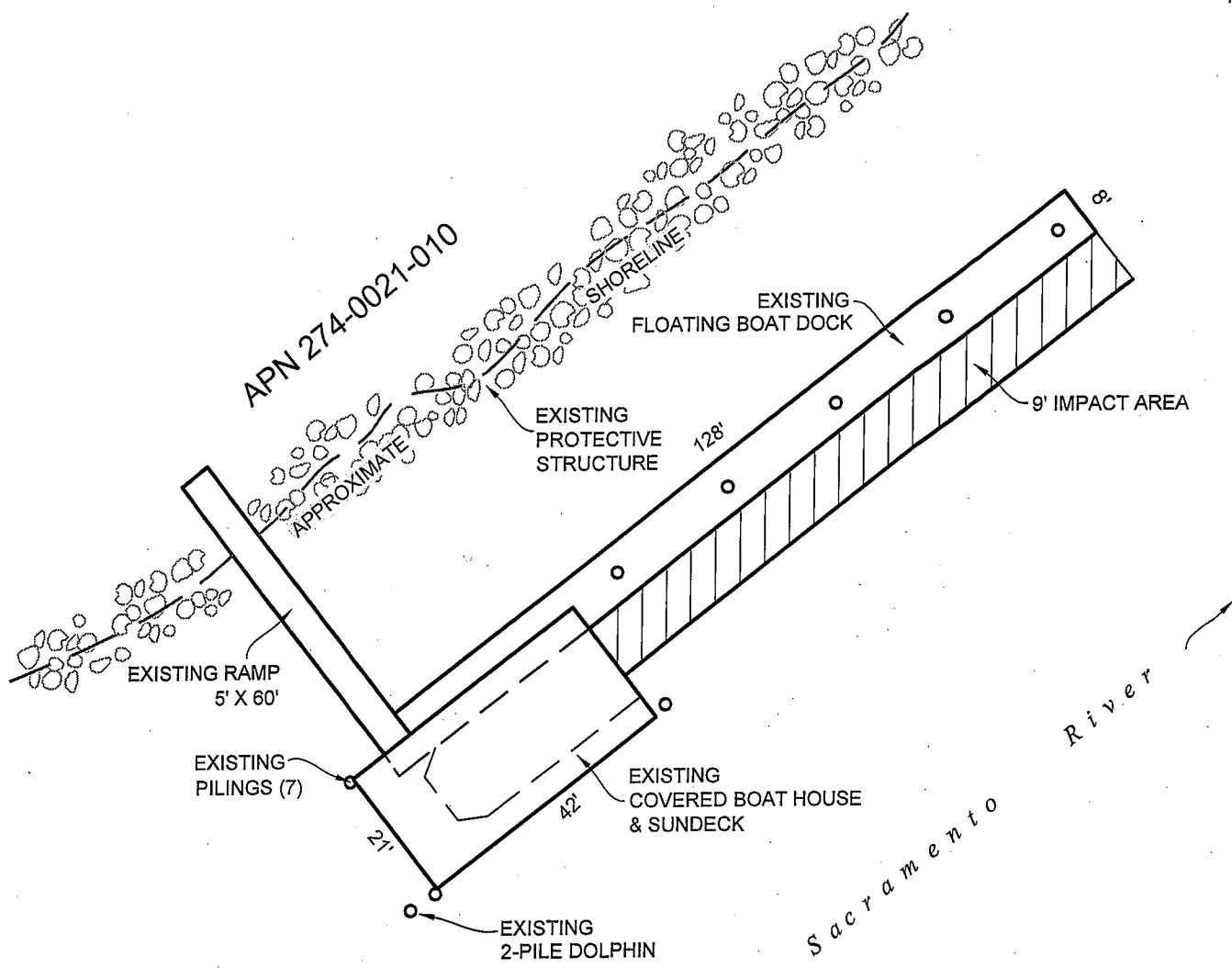


EXHIBIT A

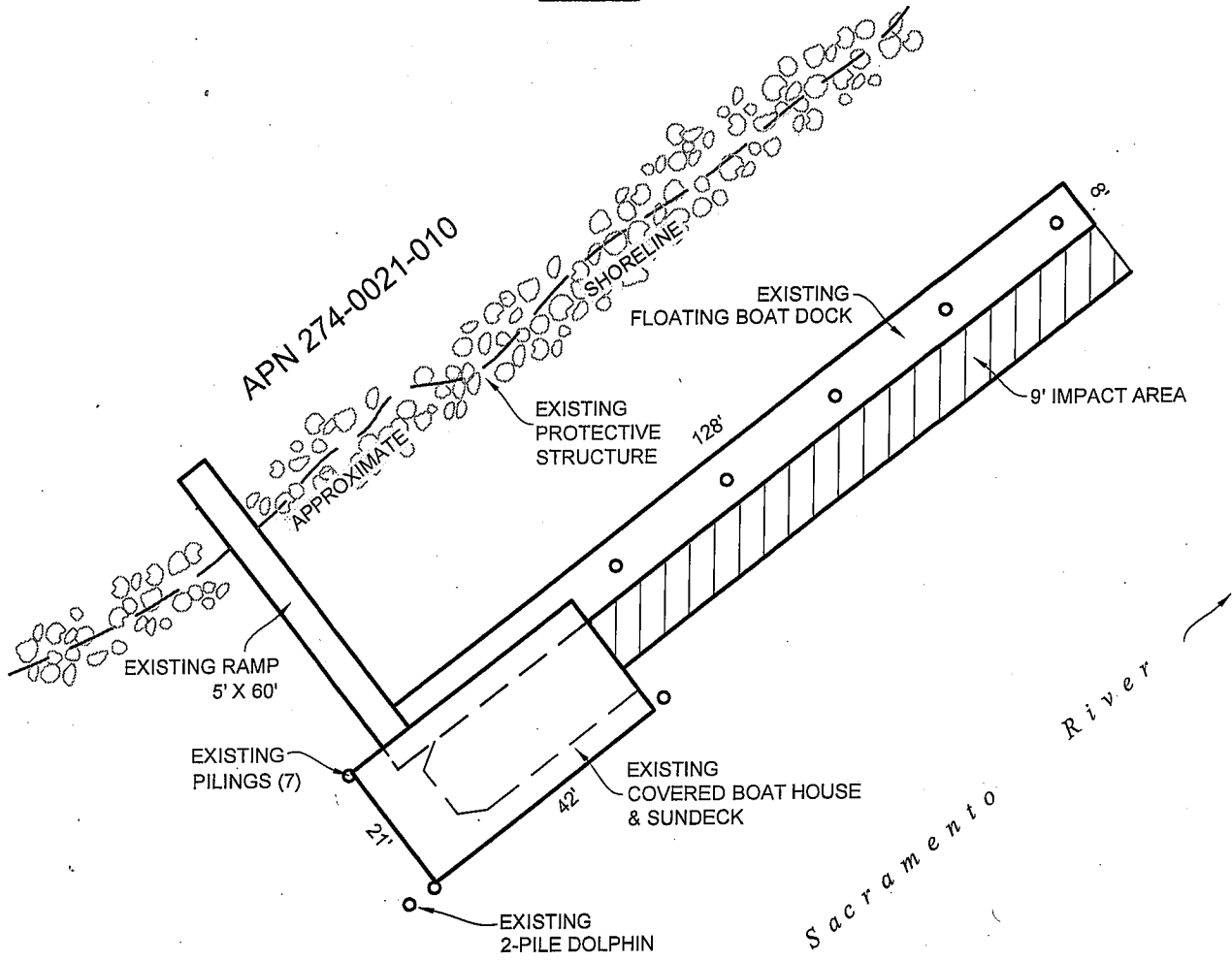
LAND DESCRIPTION PLAT
 PRC 5381.1, CASSIDY
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

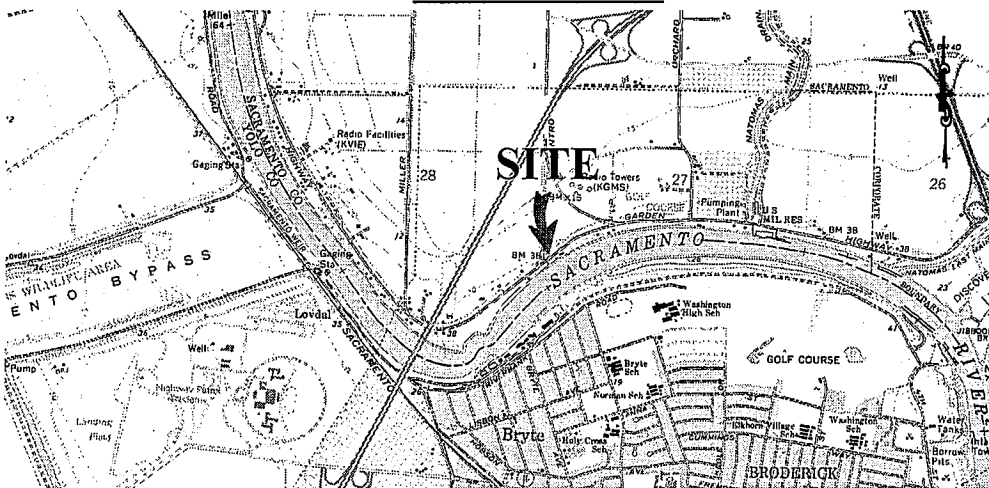
SITE



1963 GARDEN HIGHWAY, 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

PRC 5381.1
CASSIDY
APN 274-0021-010
GENERAL LEASE -
RECREATIONAL &
PROTECTIVE STRUCTURE USE
SACRAMENTO COUNTY



MIJ 02/16/2017