

**STAFF REPORT
C44**

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10/19/17
PRC 5457.9
J. Holt

GENERAL LEASE – OTHER

APPLICANT:

Ox Bow Marina, a California general partnership

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Georgiana Slough, Andrus Island, adjacent to 100 Oxbow Marina Drive, near Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of bank protection and a 36-inch-diameter culvert.

LEASE TERM:

10 years, beginning October 19, 2017.

CONSIDERATION:

Bank Protection and 36-inch-diameter culvert: 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.

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 March 30, 1978, the Commission authorized a 25-year General Permit – Protective Structure to Lloyd Korth and Jules Duc ([Item C4, March 30,](#)

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[1978](#)). That lease expired on March 31, 2003. On March 5, 2003, Kip Korth submitted a lease application, which was later rescinded by the Applicant. During the next several years, the Applicant experienced changes in business organization and property management. The business entity's current partners are Kandace Korth (Managing Partner), Kimberly Korth, Kathleen Korth, Linda Korth, Daniel Duc, and Kelly Stephens. The Applicant is now applying for a new General Lease – Other, for the continued use and maintenance of existing bank protection and a 36-inch-diameter culvert in Georgiana Slough, Andrus Island.

The proposed lease contains the same facilities as the prior lease. These facilities are needed for shoreline protection and habitat sustainment. The bank protection helps preserve the integrity of the channel for navigational and recreational purposes. The 36-inch-diameter culvert provides through-access for fish and other aquatic wildlife living in the marina basin. The basin forms a circular shape with a few entrance and exit points. The culvert supports the sustainability of habitat in accordance with State and Federal wildlife agencies. These facilities help preserve Public Trust resources in Georgiana Slough for recreational purposes.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. 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 bank protection will maintain and improve the integrity of the channel, which will help protect the Public Trust resources of the Georgiana Slough for recreational purposes by the public.

Climate Change:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The existing structures within the proposed lease area are located along the Georgiana Slough within a tidally-influenced region. The subject facilities are vulnerable to flooding at current sea levels and at higher risk of flood exposure given future projected scenarios of sea-level rise. The lease area contains bank protection and 36-inch-diameter culvert.

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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). 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).

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 outcome 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 induced droughts could decrease slough 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 sloughs and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

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 potentially leading to increased wear and tear on the culvert.

The vegetated bank provides stability and reduces the amount of erosion and scour pressure it may experience during future events because of the underground root system created from the vegetation and trees on the bank, but remains at risk of accelerated deterioration from currents and floods. Exposed portions of the bank protective structure could be vulnerable to future events, and an alternative bank protection strategy, such as bank restoration, may be required to reduce flood impacts to the upland structures, not located within the lease area. Regular maintenance,

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as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with Public Trust needs, 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 level 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 that are not identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission recognizes the value of all sovereign lands within its jurisdiction. 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

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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 – Other to the Applicant beginning October 19, 2017, for a term of 10 years, for the continued use and maintenance of existing bank protection and a 36-inch-diameter culvert, as described in Exhibit A and shown in Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the bank protection and 36-inch-diameter culvert: 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 5457.9

LAND DESCRIPTION

A parcel of tide and submerged land in Georgiana Slough, Sacramento County, California, said parcel lying immediately beneath a rip rap slope protection and a 36 inch diameter culvert, said rip rap and culvert being adjacent to that certain tract of land known as the "Ox Bow" being that portion of Swamp and Overflowed Land Survey No. 834, situated in Section 36, T4N, R3E, M.D.M., lying southeasterly of the west levee right-of-way of Georgiana Slough as said right-of-way is described in the deed from Gardiner Improvement Company, a corporation, to Sacramento and San Joaquin Drainage District, a public agency, dated May 8, 1952, recorded June 23, 1952, in Book 2242, page 72, Official Records of Sacramento County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Georgiana Slough.

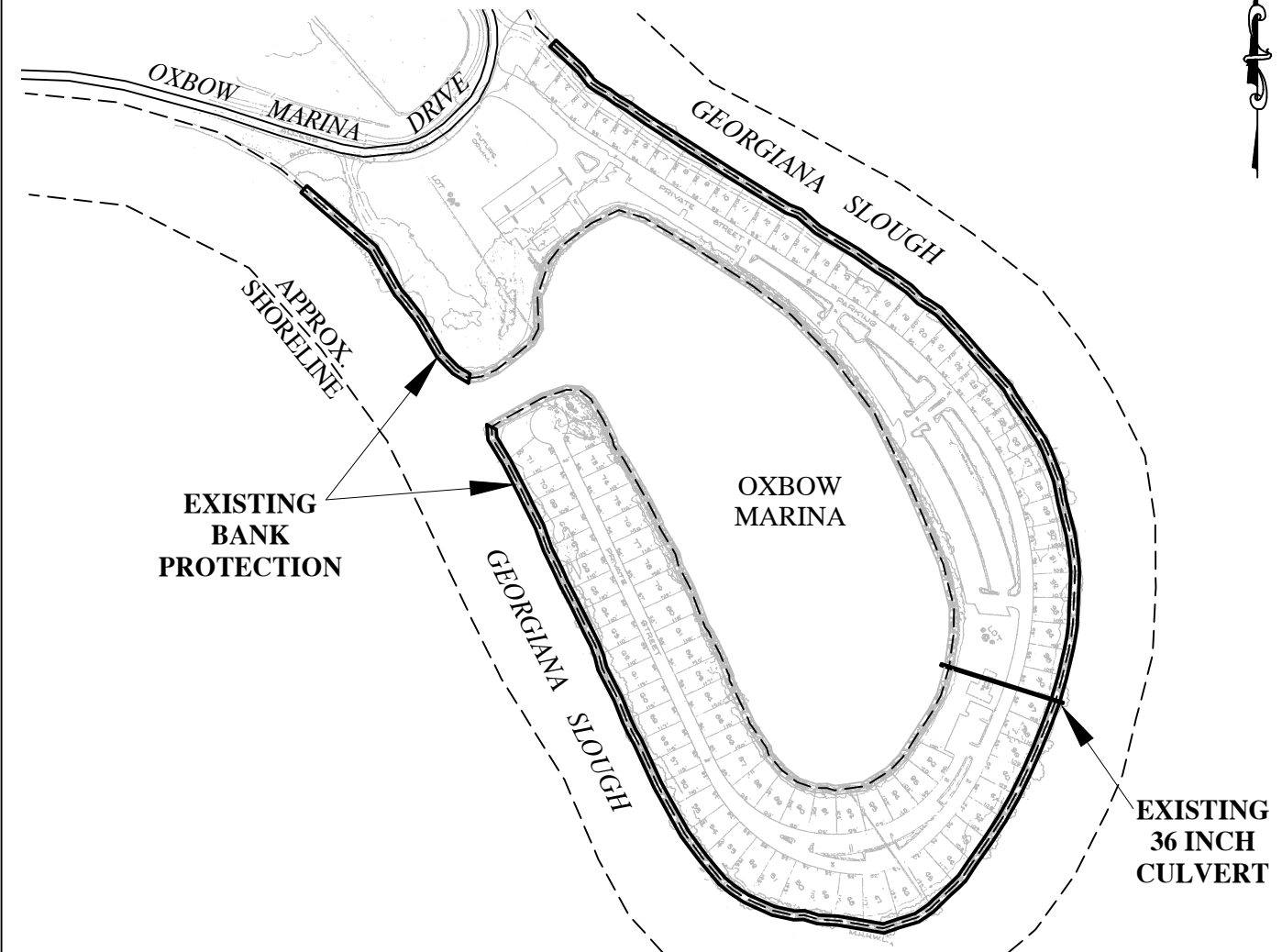
END OF DESCRIPTION

The above description is a duplicate of that original description prepared by Frank T. Carey, CSLC Boundary Unit on February 27, 1978 as found in PRC 5457 file, Calendar Item C4.



NO SCALE

SITE



100 OXBOW MARINA DRIVE, NEAR ISLETON

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

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OXBOW MARINA
APNs 157-0240-001, 051 & 065
GENERAL LEASE-
OTHER
SACRAMENTO COUNTY



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