

STAFF REPORT
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10/19/17
PRC 5280.1
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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Henry J. Sosso III and Patricia A. Sosso, Trustees, and Successor Trustees, of the Henry J. Sosso III and Patricia A. Sosso Trust under Agreement Dated October 28, 1993

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Georgiana Slough, adjacent to 14323 River Road, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of one existing boat dock and walkway previously authorized by the Commission and one existing boat dock and walkway not previously authorized by the Commission.

LEASE TERM:

10 years, beginning April 1, 2017.

CONSIDERATION:

\$449 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

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 10-year Recreational Pier Lease to Henry J. Sosso and Patricia A. Sosso ([Item C09, May 10, 2007](#)). That lease expired on March 31, 2017. The Applicant is now applying for a General Lease – Recreational Use for two existing boat docks and two walkways. The subject improvements are privately owned and maintained.

STAFF REPORT NO. **C55** (CONT'D)

The adjacent upland parcel is privately owned and developed with a residence.

The two boat docks and walkways are for 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 and fishing facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for more than 25 years at this location, and it is unknown why one of the docks was not previously authorized. The proposed lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. The varying impact areas, as depicted on the attached Exhibits, is to account for the size of the vessels the Applicant moors at the existing docks. The proposed lease also 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.

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 two floating boat docks, two walkways, and pilings.

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 regular inundation levels and dynamic tidal events within the lease area, and lead to more frequent flooding in low lying areas. As stated in *Safeguarding*

STAFF REPORT NO. **C55** (CONT'D)

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 is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In sloughs 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 exposing previously submerged structures to the elements, potentially leading to increased wear and tear on the pilings and dock, reduce navigability of the channel, thereby increasing hazards and impacting the functionality and utility of the lease area structures.

The floating boat docks and adjustable walkways are able to rise and fall with tides, storm surges, and droughts to some extent, but may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of lease structures. The pilings appear to be at sufficient heights to withstand projected changes in water levels, but additional fortification may be needed.

Although not within the lease area, the vegetated bank provides stability and reduces the amount of erosion and scour pressure experienced during future events, but remains at risk of accelerated deterioration from

STAFF REPORT NO. **C55** (CONT'D)

currents and floods. Exposed portions of the bank could be vulnerable to future events. Bank restoration may be required to protect the anchoring points of the lease premise structures and reduce flood impacts.

Regular maintenance of the boat docks and walkways, 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, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, or 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. The large impact area of the southern dock is due to the fact that all Applicant's recreational vessels are moored there.
2. 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.
3. 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.

4. 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.

STAFF REPORT NO. **C55** (CONT'D)

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 Use to Henry J. Sosso III and Patricia A. Sosso, Trustees, and Successor Trustees, of the Henry J. Sosso III and Patricia A. Sosso Trust under Agreement Dated October 28, 1993; beginning April 1, 2017, for a term of 10 years, for the use and maintenance of one existing boat dock and walkway previously authorized by the Commission and one existing boat dock and walkway not previously authorized by the Commission, 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 \$449, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5280.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Georgiana Slough, lying adjacent to Lot 4 of Section 35, Township 5 North, Range 4 East, MDM., as shown on Official Government Township Plat approved January 17, 1872, County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying two existing floating boat dock, and two walkways lying adjacent to those parcels described in those Individual Grant Deeds recorded October 29, 1993 in Book 93 1029 at Pages 2040 and 2038 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 the Georgiana Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/24/2017 by the California State Lands Commission Boundary Unit.



NO SCALE



GEORGIANA SLOUGH

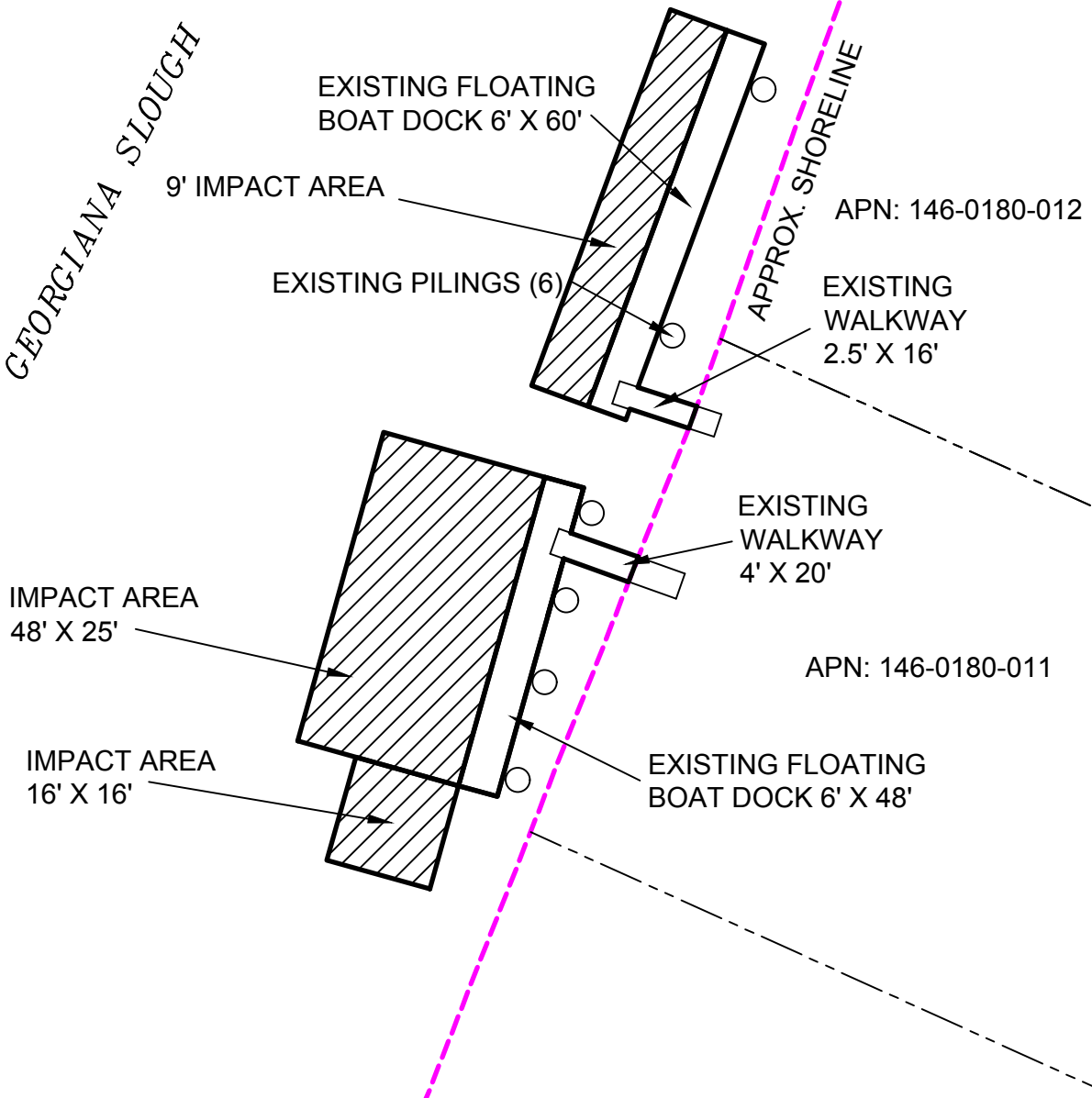


EXHIBIT A

Page 2 of 2

RPF 8/24/17

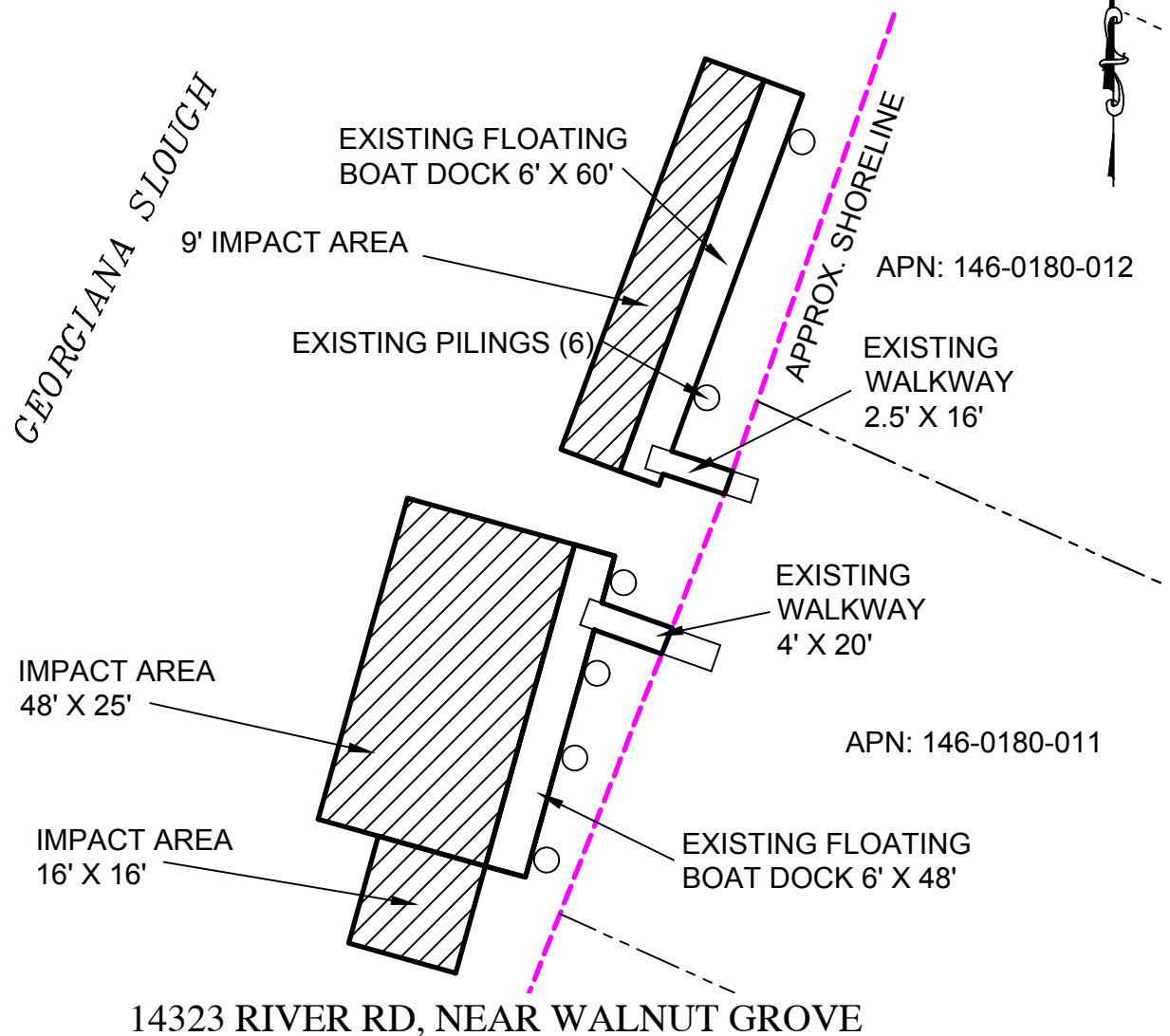
LAND DESCRIPTION PLAT
PRC 5280.1, SOSSO TRUSTEE
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



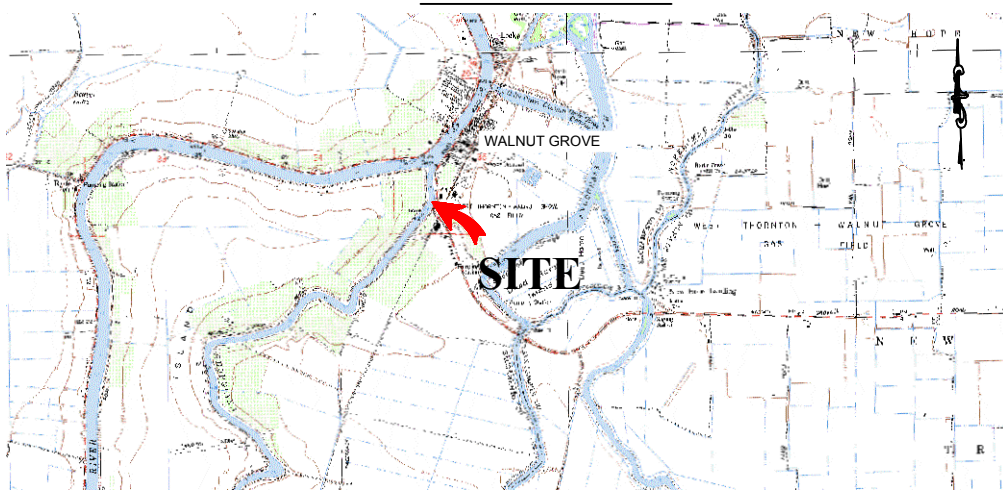
NO SCALE

SITE



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 5280.1
SOSSO TRUSTEES
APN's: 146-0180-011, 012
GENERAL LEASE -
RECREATIONAL USE
SACRAMENTO COUNTY



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