

**STAFF REPORT
C33**

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06/21/18
PRC 5637.1
G. Asimakopoulos

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

Shawn Berrigan and Diane House

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 11740 State Highway 160, near Courtland, Sacramento County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing commercial marina, known as Courtland Docks, consisting of a floating boat dock for side tie berthing, a boat lift, a gangway, a platform, pilings, electric and water utility outlets, a debris diverter, and a deck.

LEASE TERM:

10 years, beginning October 22, 2017.

CONSIDERATION:

\$2,398 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

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

Bond: \$10,000

Other: The lease contains provisions that require 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 and 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, 6501.1, and 6503; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On December 3, 2007, the Commission authorized a General Lease - Commercial Use to Shawn Berrigan and Diane House, for the continued operation, use, and maintenance of an existing commercial marina known as Courtland Docks ([Item C21, December 3, 2007](#)). That lease expired on October 21, 2017. The Applicant has applied for a new General Lease - Commercial Use, for the use, operation, and maintenance of the existing floating boat dock for side tie berthing, a boat lift, a gangway, a platform, pilings, electric and water utility outlets, a debris diverter, and a deck.

The subject marina directly promotes Public Trust needs by accommodating, promoting, and fostering the public's need for boating services, helping increase public access to the river, and facilitating the public's enjoyment of the State's adjacent 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.

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. 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.

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Climate Change Analysis:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased storm events and flooding. The lease area is located along the Sacramento River within a tidally-influenced region vulnerable to flooding at current sea levels. The facilities associated with this lease area include: a floating boat dock, electric and water utility outlets on the floating boat dock, floating boat lift, pilings, adjustable gangway, floating platform, floating debris diverter, and fixed deck in the Sacramento River. In the foreseeable future, this area will be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

By 2030, this 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). The effects could increase the Sacramento River's inundation levels within the lease area. 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, fire, drought, extreme heat, 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 projection 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 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 combination of these projected conditions could increase 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, hazards from the electrical conduits, and cause facilities to be damaged or dislodged, presenting hazards to public safety, as well as

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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, reduce navigability of the channel, thereby increasing hazards, and impacting the function and utility of the lease area structures.

The floating boat dock, electric and water utility outlets on the floating boat dock, floating boat lift, adjustable gangway, floating platform, and floating debris diverter 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 functionality, during and after storm seasons and to avoid dislodgement of dock facilities, or hazards from the electrical conduits. The fixed features like the deck and pilings may need reinforcement to withstand higher levels of flood exposure.

Although not located within the lease premises, the vegetated bank and trees provide stability and reduce the amount of erosion and scour pressure the improvements may experience during future events because of the underground root system created from the trees and vegetation on the bank but remains at risk of accelerated deterioration from currents and floods. 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 are located in an area that may be subject to effects of climate change.

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, and 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. 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.

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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.

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 impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to Shawn Berrigan and Diane House beginning October 22, 2017, for a term of 10 years, for the continued use, maintenance, and operation of an existing commercial marina known as Courtland Docks, consisting of a floating boat dock for side tie berthing, a boat lift, a gangway, a platform, pilings, electric and water utility outlets, a debris diverter, and a deck, 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 marina facilities: rent in the amount of \$2,398 per year, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond in the amount of \$10,000.

EXHIBIT A

PRC 5637.1

LAND DESCRIPTION

Two (2) parcels of tide and submerged land situated in the bed of the Sacramento River, Sacramento County, California more particularly described as follows:

Parcel 1

BEGINNING at a point on the left bank of said river which bears S 40°20'46" W, 3991.10 feet from NGS brass cap monument "Courtland", point ID JS4311 having a CCS83 (2002.84 epoch) coordinate of N=1,886,023.03 E=6,687,547.24; thence northeasterly, along said bank N 42°28'02" E, 288.77 feet; thence leaving said bank N 58°24'41" W, 144.23 feet; thence S 31°35'19" W, 7.08 feet; thence S 57°07'07" E, 47.28 feet; thence S 40°57'57" W, 18.01 feet; thence N 48°57'42" W, 4.46 feet; thence S 41°02'18" W, 53.28 feet; thence S 48°57'42" E, 4.53 feet; thence S 40°57'57" W, 212.62 feet; thence N 49°53'54" W, 5.12 feet; thence S 40°06'06" W, 142.51 feet; thence S 47°58'55" E, 94.85 feet to said bank; thence N 39°11'02" E, 163.46 feet along said bank to the POINT OF BEGINNING.

Parcel 2

A circular parcel with 6 foot radius whose center bears S 41°55'55" W, 3837.46 feet from aforementioned NGS monument.

EXCEPTING THEREFROM that portion of either parcel lying landward of the ordinary high water mark.

The basis of bearings for this description is California Coordinate System 1983, zone 2. All bearings and distances are grid and in feet.

END OF DESCRIPTION

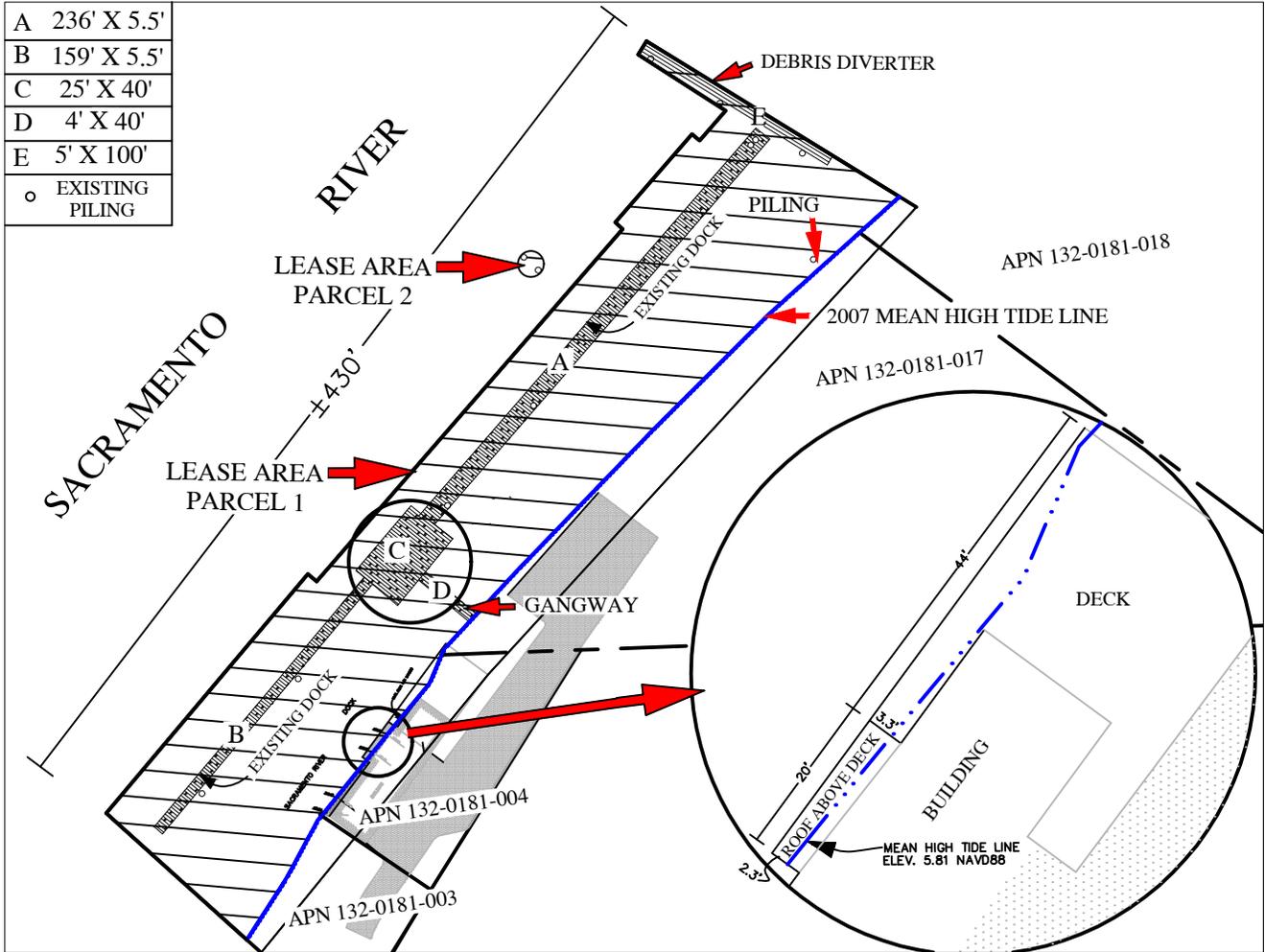
Prepared 11/27/07 by California State Lands Commission boundary unit.



NO SCALE

SITE

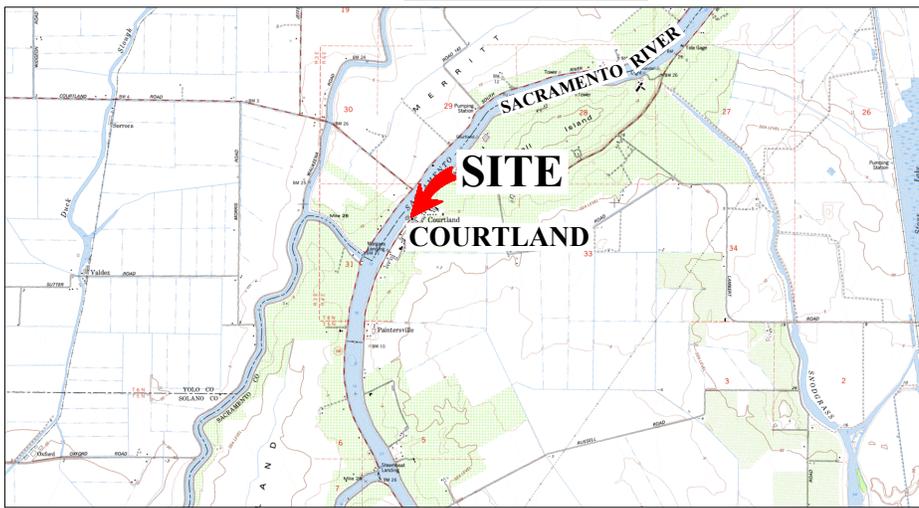
A	236' X 5.5'
B	159' X 5.5'
C	25' X 40'
D	4' X 40'
E	5' X 100'
○	EXISTING PILING



COURTLAND DOCKS, SACRAMENTO RIVER
 11740 HIGHWAY 160, COURTLAND, CA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5637.1
 BERRIGAN/HOUSE
 APN 132-0181-003,004,017,018
 GENERAL LEASE -
 COMMERCIAL USE
 SACRAMENTO COUNTY



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.