

**STAFF REPORT  
C23**

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10/18/18  
PRC 7249.1  
S. Avila

**GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE**

**APPLICANT:**

Jim Westberg and Julie Westberg, as Trustee of the Westberg Family Trust dated June 22, 2000

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land located in the Sacramento River, adjacent to 3405 Riverview Drive, city of Redding, Shasta County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing concrete dock platform, uncovered floating boat dock, two pilings, and bank protection.

*LEASE TERM:*

10 years, beginning October 7, 2018.

*CONSIDERATION:*

**Concrete dock platform, uncovered floating boat dock, and two pilings:** \$125 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 climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 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 April 9, 2009, the Commission authorized a General Lease – Recreational and Protective Structure Use to Jim Westberg and Julie Westberg, as Trustee of the Westberg Family Trust dated June 22, 2000 for a concrete platform, boat dock, pilings and bank protection ([Item C12, April 9, 2009](#)). That lease will expire on October 6, 2018. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the continued use and maintenance of an existing concrete dock platform, uncovered floating boat dock, two pilings, and bank protection in the Sacramento River.

The proposed lease area contains the same facilities as in the prior lease. The lease facilities are designed for recreational boating and shoreline protection. The floating boat dock and appurtenant facilities have existed at this location for many years. 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 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 use by the public.

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 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:**

The lease area is located along the Sacramento River within a region identified as non-tidal riverine and therefore, would not be subject to sea-level rise. The lease area is in a 100-year floodplain as designated by the Federal Emergency Management Agency and is vulnerable to weather-related flooding and flooding from the potential failure of dams or spillways located upstream on the Sacramento River.

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can 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 will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, the fixed structures like the concrete dock platform, bank protection and the two pilings could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. The adjustable or floating structures like the uncovered floating boat dock will be adaptable to variable water levels, allowing it to rise and fall with storms and droughts and increasing its resiliency to some climate change impacts, but may require more frequent maintenance or replacement to ensure continued function during and after storm seasons or to avoid dislodgement.

Regular maintenance, as required by 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 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

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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.

**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 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 – Recreational and Protective Structure Use to the Applicant beginning October 7, 2018, for a term of 10 years, for the continued use and maintenance of an existing concrete dock platform, uncovered floating boat dock, two pilings, 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 concrete dock platform, uncovered floating boat dock, and two pilings: \$125 per year, with an annual Consumer Price Index adjustment; consideration for the bank protection: the public use and benefit, with the

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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 7249.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Rancho San Buenaventura, Shasta County, State of California, more particularly described as follows:

All those lands underlying an existing dock platform, an existing uncovered floating boat dock, two pilings lying adjacent to that Parcel 2 as described in Schedule A of Article 8, Powers of Trustee of that Grant Deed recorded July 11, 2000, in Document 2000-0024535 in Official Records of said County.

TOGETHER WITH that any applicable impact area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said parcel.

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the bank of the Sacramento River.

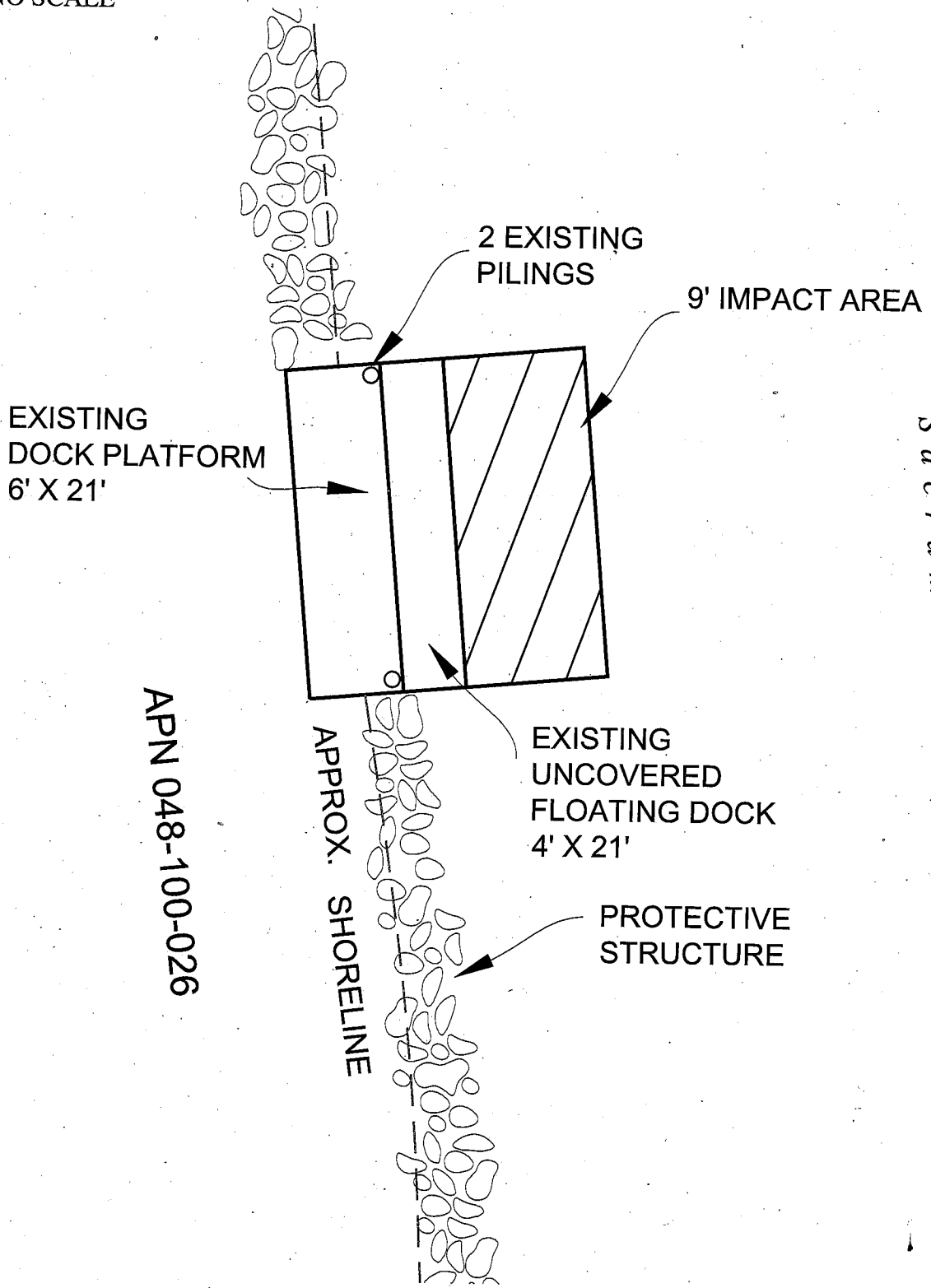
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared September 19, 2018 by the California State Lands Commission Boundary Unit.



NO SCALE



### EXHIBIT A

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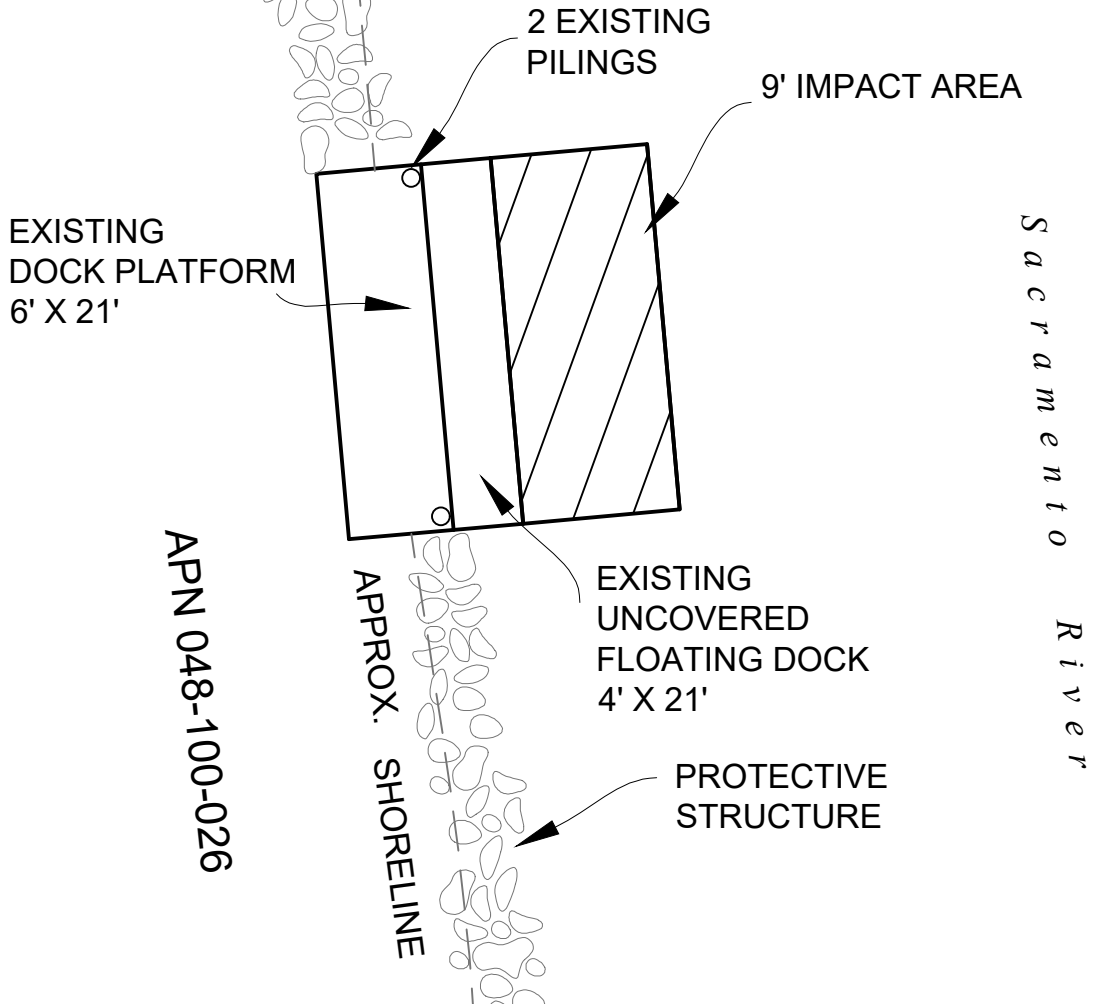
LAND DESCRIPTION PLAT  
 PRC 7249.1, WESTBERG TRUST  
 SHASTA COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

# SITE



3405 RIVERVIEW DRIVE, CITY OF REDDING

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

## Exhibit B

PRC 7249.1  
 WESTBERG TRUST  
 APN 048-100-026  
 GENERAL LEASE -  
 RECREATIONAL &  
 PROTECTIVE STRUCTURE USE  
 SHASTA 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.

MIJ 9/19/18