

**STAFF REPORT
C26**

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10/18/18

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PRC 4064.1
G. Asimakopoulos

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

APPLICANT:

Alfred A. Alys and Shirley A. Alys, as Trustees of the Alys Family Living Trust
Dated November 9, 2000

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Georgiana Slough, adjacent to 413 West Willow
Tree Lane, near Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock,
walkway, two pilings, and bank protection previously authorized by the
Commission, and an existing water utility outlet not previously authorized
by the Commission.

LEASE TERM:

10 years, beginning October 18, 2018.

CONSIDERATION:

Floating Boat Dock, Walkway, Two Pilings, and Water Utility Outlet:
\$154 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.

STAFF REPORT NO. **C26** (CONT'D)

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 June 28, 2007, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Alfred Alys and Shirley Alys, for the continued use and maintenance of an existing floating boat dock, walkway, pilings, and bank protection ([Item C28, June 28, 2007](#)). That lease expired on March 31, 2017. On November 29, 2000, the adjacent upland parcel was transferred to Alfred A. Alys and Shirley A. Alys, as Trustees of the Alys Family Living Trust Dated November 9, 2000. The Applicant is now applying for a lease for the continued use and maintenance of the existing floating boat dock, walkway, two pilings, and bank protection previously authorized by the Commission, and a water utility outlet not previously authorized by the Commission. While the water utility outlet was not called out in the prior lease it appears to have been in place before the Commission's prior authorization. Staff recommends issuance of a new lease beginning October 18, 2018. Staff also recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$237 for the period beginning April 1, 2017, the day following expiration of the prior lease, through October 17, 2018, the day preceding issuance of the proposed new lease.

The adjacent upland parcel is privately owned and developed with a residence. The subject floating boat dock and appurtenant facilities are privately owned and maintained for the docking and mooring of boats. These facilities are used for recreational boating and shoreline protection. Recreational boating is water-dependent 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 shoreline protection helps preserve the channel for navigational and recreational purposes. The existing floating boat dock and appurtenant facilities have existed at this location for many years and are located directly adjacent to the Applicant's upland property.

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 facilities will not significantly alter the

STAFF REPORT NO. C26 (CONT'D)

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.

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. The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river for recreational and navigational 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 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 a floating boat dock, walkway, two pilings, a water utility outlet, and 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 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 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 (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 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

STAFF REPORT NO. **C26** (CONT'D)

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 dock and partially adjustable walkway can 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.

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

Regular maintenance of the boat dock and walkway, 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 and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise, and may require additional maintenance or protection as a result, for which the Applicant agrees to be solely responsible.

STAFF REPORT NO. **C26** (CONT'D)

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.

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.

STAFF REPORT NO. **C26** (CONT'D)

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$237 for unauthorized occupation of State land for the period beginning April 1, 2017 through October 17, 2018.

2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning October 18, 2018, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, walkway, two pilings, and bank protection previously authorized by the Commission, and an existing water utility outlet not previously authorized by the Commission, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; consideration for the floating boat dock, walkway, two pilings, and water utility outlet: \$154 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 4064.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Georgiana Slough lying adjacent to Swamp and Overflow Survey 943, patented April 14, 1873, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing floating boat dock, walkway, two pilings, water utility outlet lying adjacent to that parcel as described in Exhibit A in that Grant Deed recorded November 29, 2000 in Book 20001129, Page 469 in 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 the right bank of the Georgiana Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 16, 2017 by the California State Lands Commission Boundary Unit.



Georgiana

Slough



9' IMPACT AREA

EXISTING FLOATING BOAT DOCK WITH UTILITY OUTLET

16'

40'

8'

18'

6'

2 EXISTING PILINGS

EXISTING WALKWAY

PROTECTIVE STRUCTURE

40'

3'

APPROX. SHORELINE

APN 156-0100-010

EXHIBIT A

Page 2 of 2

MJJ 8/13/18

LAND DESCRIPTION PLAT
PRC 4064.1, ALYS FAMILY LIVING TRUST
SACRAMENTO COUNTY

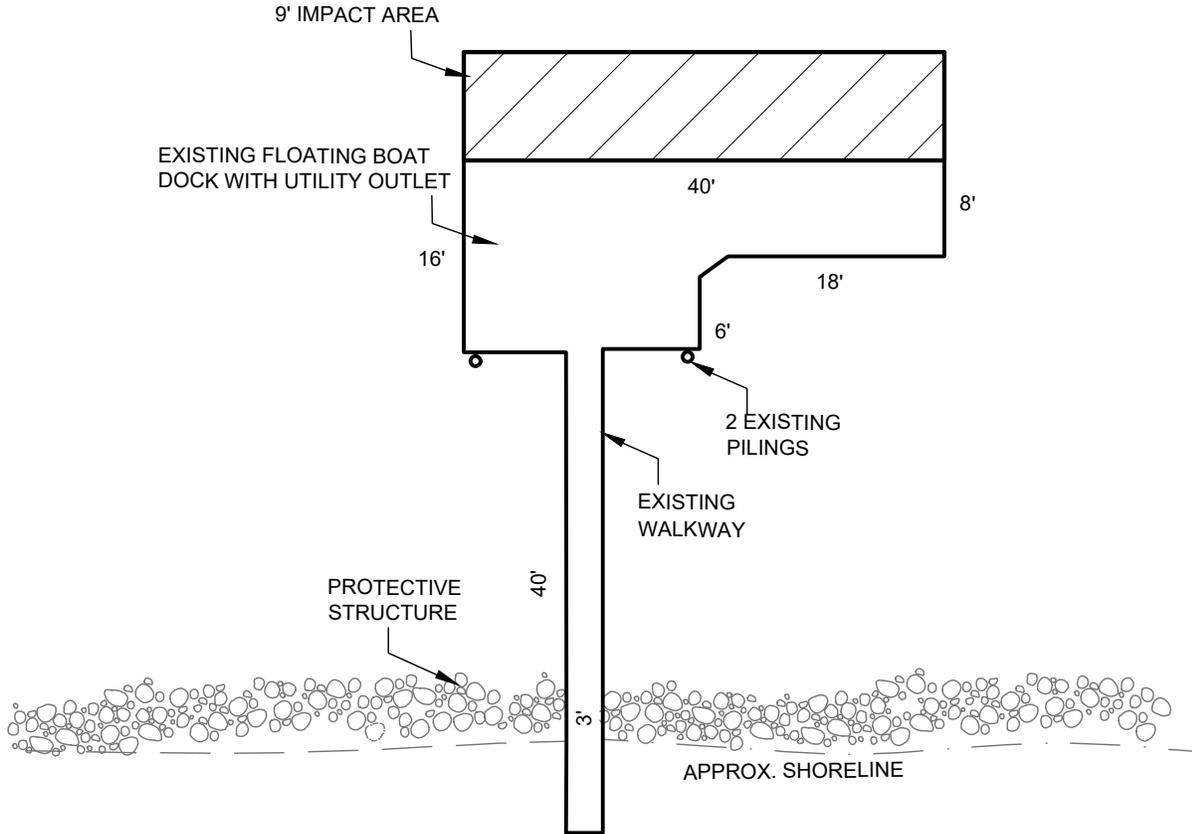
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

Georgiana Slough



APN 156-0100-010

413 WEST WILLOW TREE LANE, NEAR ISLETON

NO SCALE

LOCATION

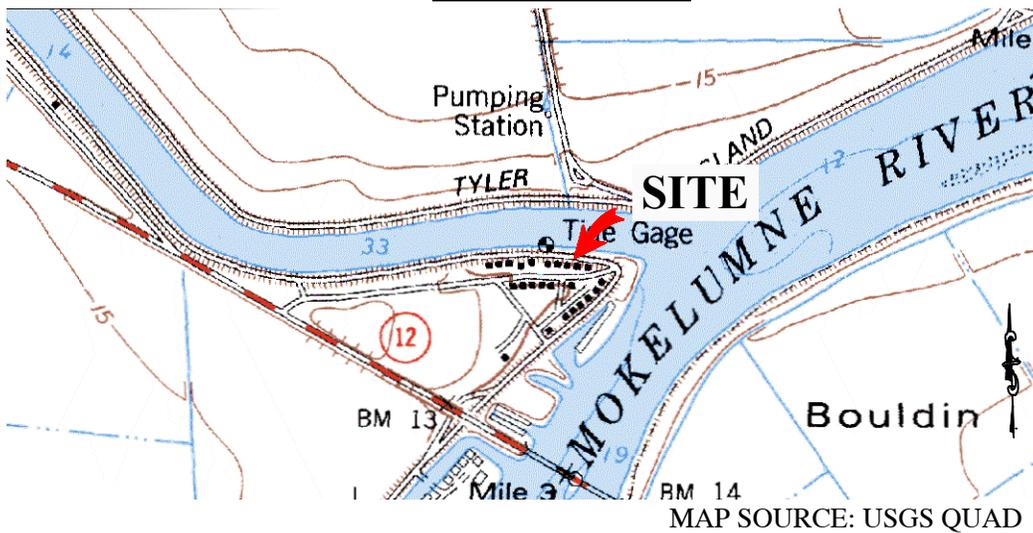


Exhibit B

PRC 4064.1
 ALYS FAMILY LIVING TRUST
 APN 156-0100-010
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURE 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.

MJJ 8/13/18