

**STAFF REPORT
45**

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06/28/19
PRC 5226.1
J. Holt

**TERMINATION OF A GENERAL LEASE – RECREATIONAL USE;
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Ray W. Walker, Trustee of the Walker Living Trust

APPLICANT:

Carter Fisher and Sharon Fisher

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 14370 Highway 160, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing floating boat dock, ramp, and pier.

LEASE TERM:

10 years, beginning June 28, 2019.

CONSIDERATION:

\$779 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.
- Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.
- Lessee agrees to indemnify the Commission for any liabilities arising from the period of unauthorized occupation of the State lands (prior to the issuance of the lease).

STAFF REPORT NO. 45 (CONT'D)

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 October 19, 2012, the Commission authorized a 10-year General Lease – Recreational Use to Ray W. Walker, Trustee of the Walker Living Trust ([Item C32, October 19, 2012](#)). That lease will expire on November 30, 2022. On April 29, 2016, the upland was deeded to Carter Fisher and Sharon Fisher. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of an existing floating boat dock, ramp, and pier in the Sacramento River.

Staff recommends termination of the existing lease, Lease No. PRC 5226.1, due to the Lessee's abandonment of the lease area, effective June 27, 2019, the day preceding issuance of the proposed lease. The title transfer occurred without a lease quitclaim deed and notification to staff. Staff also recommends that the Commission issue a new lease to the Applicant, effective June 28, 2019, the date of the Commission meeting. The Commission's accounting records indicate the annual rent is current.

The proposed lease area contains the same facilities as the prior lease. These facilities are designed for recreational boating and fishing purposes. 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 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 the 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.

STAFF REPORT NO. 45 (CONT'D)

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Sacramento River in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of a floating boat dock, ramp, pier, and appurtenant facilities.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Sacramento River’s inundation levels within the lease area, and this risk of flood exposure is likely to increase with time. In addition, 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. 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 riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

STAFF REPORT NO. 45 (CONT'D)

The combination of these projected conditions could increase the likelihood of damage and affect access 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 facilities 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 and potentially leading to increased wear-and-tear on the appurtenant facilities and dock. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The floating dock and ramp 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. The fixed features may need reinforcement to withstand higher levels of flood exposure.

The bank is somewhat vegetated, which provides additional stability and will reduce the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system, but it remains at risk of accelerated deterioration from currents and floods. Exposed portions of the existing protective structure (under Lease No. PRC 7203.9) could be vulnerable to future events, and an alternative bank protection strategy, such as bank restoration, may be required to protect the anchoring points of the other structures under lease, improve slope stability, and reduce flood impacts to the upland parcel. 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 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.

Conclusion:

For all the reasons above, 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.

STAFF REPORT NO. 45 (CONT'D)

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the existing floating boat dock, ramp, and pier, and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
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. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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.

5. Exhibit B references existing bank protection, covered under Lease No. PRC 7203.9.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

STAFF REPORT NO. 45 (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease 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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination of Lease No. PRC 5226.1, a General Lease – Recreational Use, issued to Ray W. Walker, Trustee of the Walker Living Trust, effective June 27, 2019.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 28, 2019, for a term of 10 years, for the use and maintenance of an existing floating boat dock, ramp, and pier, 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 \$779, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5226.1

LAND DESCRIPTION

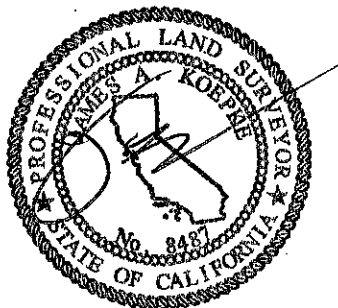
A parcel of tide and submerged land situate on the right bank of the Sacramento River, lying adjacent to Swamp Land Survey 313 patented August 12, 1872, Sacramento County, State of California, more particularly described as follows:

Bounded on the on the north by the easterly prolongation of the north line of that parcel as described in Exhibit "A" of that Grant Deed recorded April 29, 2016 of Book 20160429 Page 1426 in Official Records of said County; Bounded on the south by the easterly prolongation of the south line of said parcel; Bounded on the west by the ordinary high water mark of the right bank of the Sacramento River; Bounded on the east by a line lying parallel with and 55 feet perpendicular to said ordinary high water mark.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 25, 2019 by the California State Lands Commission Boundary Unit.



APN 142-0100-033

HWY 160

APN 142-0100-068



EXISTING BANK PROTECTION
LEASE NO. PRC 7203.9

9' IMPACT AREA(S)

EXISTING
FLOATING BOAT DOCK
8' X 180'

45'

180'

EXISTING
RAMP 4' WIDE

EXISTING
PIER

Sacramento River



EXHIBIT A

Page 2 of 2

MJJ 03/22/19

LAND DESCRIPTION PLAT
PRC 5226.1, FISHER
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



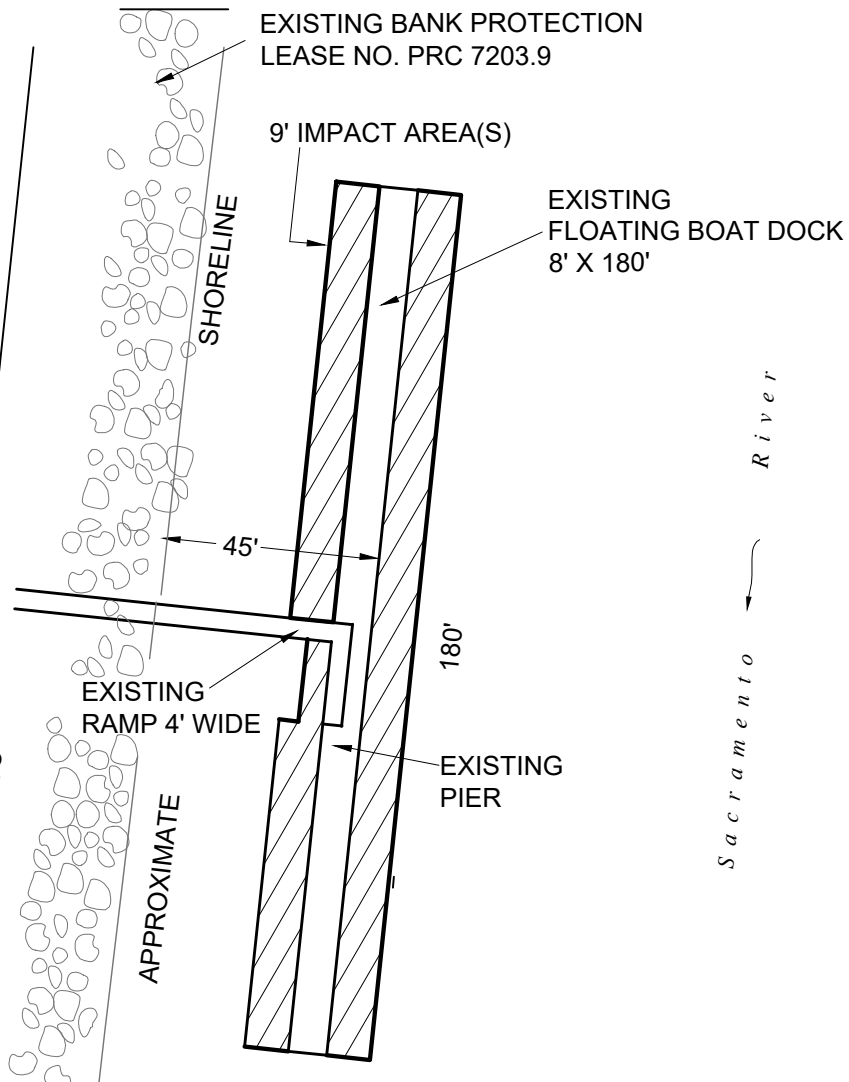
NO SCALE

SITE

APN 142-0100-033

HWY 160

APN 142-0100-068



14370 HIGHWAY 160, WALNUT GROVE

NO SCALE

LOCATION

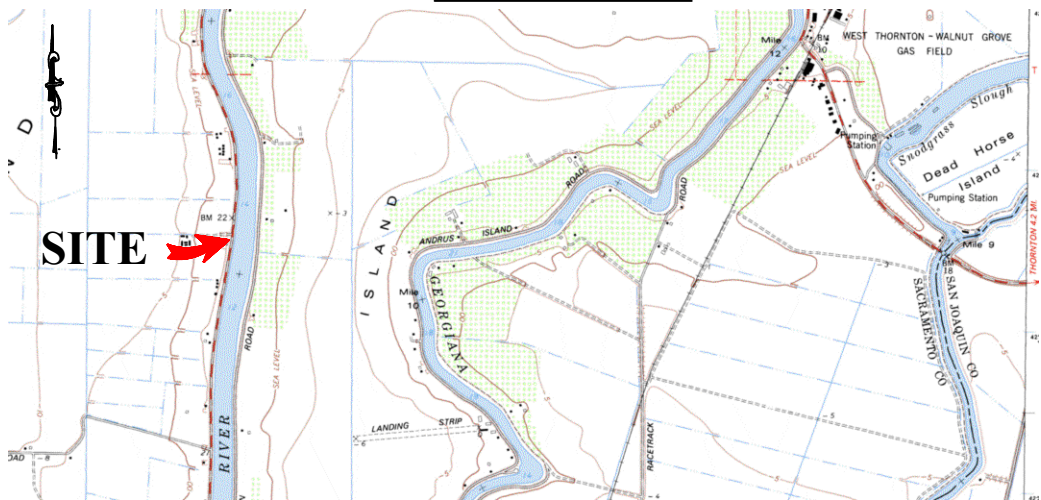


Exhibit B

PRC 5226.1
FISHER
APN 142-0100-033 & 068
GENERAL LEASE -
RECREATIONAL 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.