

STAFF REPORT

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08/23/19

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PRC 7991.1

J. Toy

**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE
STRUCTURE USE**

LESSEE:

Steve Chadaris and Jannine Chadaris

APPLICANT:

John Grant Lewis and Shaini Lewis

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 10005 Garden Highway, near Verona, Sutter County.

AUTHORIZED USE:

Continued use and maintenance of an existing covered boat dock, four pilings, gangway, two electrical boxes, water line, and bank protection.

LEASE TERM:

10 years, beginning August 23, 2019.

CONSIDERATION:

Covered boat dock, four pilings, gangway, two electrical boxes, and water line: \$429 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:

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

STAFF REPORT NO. 04 (CONT'D)

- Lessee agrees and acknowledges that the hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the lease premises.

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 December 10, 2010, the Commission authorized a General Lease – Recreational and Protective Structure Use for an existing covered boat dock, four pilings, gangway, two electrical boxes, water line, and bank protection to Matthew Gnagy ([Item C10, December 10, 2010](#)). The lease will expire on December 27, 2019. On December 2, 2013, the Commission authorized assignment of the lease to Steve Chadaris and Jannine Chadaris ([Item C33, December 2, 2013](#)). On June 13, 2018, ownership of the upland property was deeded to John Grant Lewis and Shaini Lewis.

The Applicant is applying for issuance of a new lease for the continued use and maintenance of the facilities. The Lessee executed a lease quitclaim deed releasing their interest in the lease. As a result, staff recommends the following actions: acceptance by the Commission of the lease quitclaim deed, issuance of a new lease beginning August 23, 2019, and acceptance of compensation for the unauthorized occupation of State land from the Applicant in the amount of \$513 for the period beginning June 13, 2018 (the day the property was deeded to the applicant) through August 22, 2019 (the day before the effective date of the new lease) for the facilities.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained and have existed for many years at this location. The facilities are used for recreational boating and shoreline protection. 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 bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources of the Sacramento River, for recreational and navigational use by the public.

STAFF REPORT NO. **04** (CONT'D)

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.

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 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 Sacramento River’s inundation levels within the lease area. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is

STAFF REPORT NO. 04 (CONT'D)

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.

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 pilings 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 boat dock and adjustable gangway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, increasing their resiliency to some climate change impacts; but may require more frequent maintenance or replacement to ensure continued function during and after storm seasons and to avoid dislodgement. The fixed features, such as the dolphin, pilings, and bank protection, may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events. The bank is covered with concrete pavers and riprap and contains some vegetation, 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 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 and adjacent upland (not within the lease area) are

STAFF REPORT NO. 04 (CONT'D)

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 is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

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 boat dock, appurtenant facilities, and bank protection 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. Acceptance of the quitclaim deed 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.

EXHIBITS:

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

STAFF REPORT NO. 04 (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 acceptance of a lease quitclaim deed and issuance of 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 common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective August 22, 2019, of Lease No. PRC 7991.9, a General Lease – Recreational and Protective Structure Use, issued to Steve Chadaris and Jannine Chadaris.
2. Authorize acceptance of compensation from the Applicant in the amount of \$513 for the unauthorized occupation of State land for the period beginning June 13, 2018 through August 22, 2019.
3. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning August 23, 2019, for a term of 10 years, for the continued use and maintenance of an existing covered boat dock, four pilings, gangway, two electrical boxes, water line, 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 covered dock, four pilings, gangway, two electrical boxes, and water line: \$429 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.

LAND DESCRIPTION

A parcel of tide and submerged land situate on the left bank of the Sacramento River, lying adjacent to Lot 4, fractional Section 36, Township 11 North Range 3 East, Sutter County, State of California, more particularly described as follows:

All those lands underlying an existing gangway, an existing single-berth covered dock, two utility boxes, a water line and four pilings lying adjacent to that Lot as described in that Grant Deed recorded August 2, 2013, in Document 2013-0013016 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 Lot.

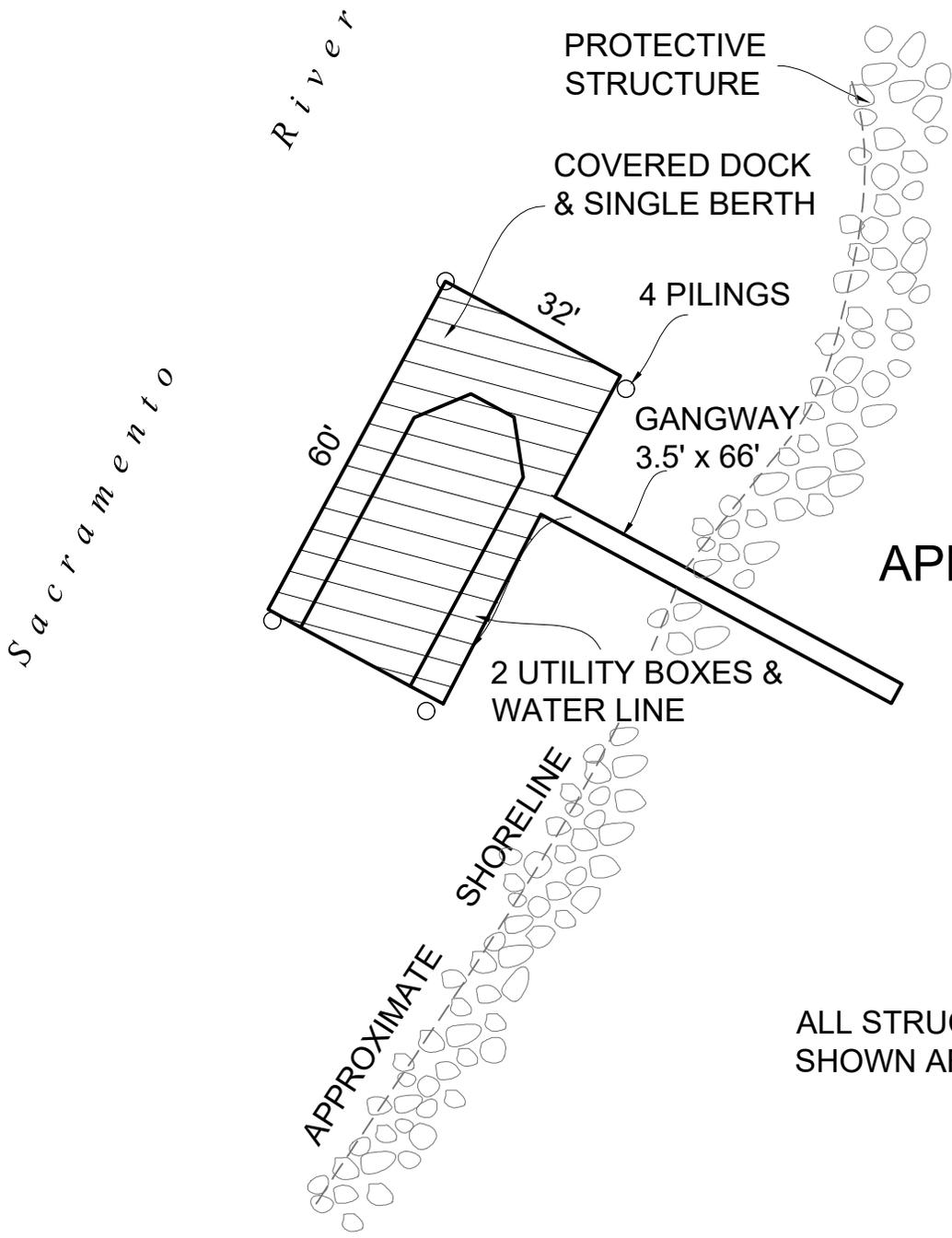
EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared October 10, 2014 by the California State Lands Commission Boundary Unit.





APN 35-351-007

ALL STRUCTURES SHOWN ARE EXISTING

EXHIBIT A

Page 2 of 2

MJJ 10/2218

LAND DESCRIPTION PLAT
 PRC 7991.1, LEWIS
 SUTTER COUNTY

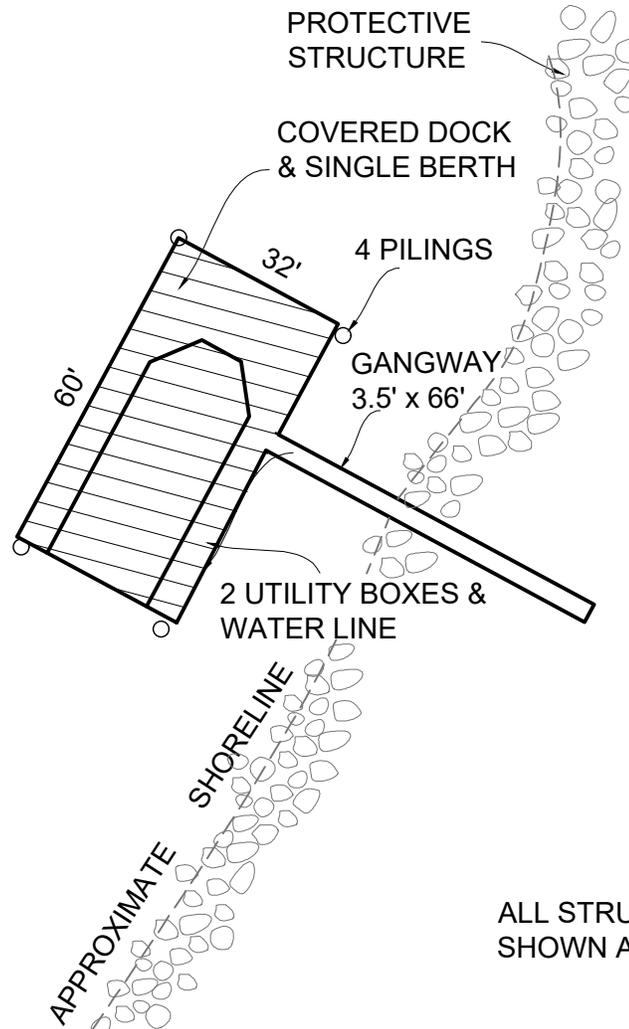
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

Sacramento River



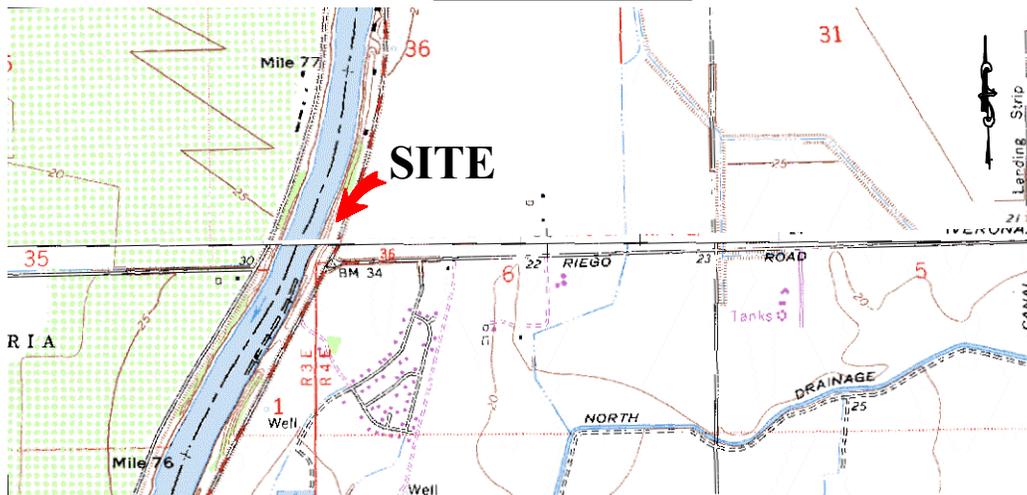
APN 35-351-007

ALL STRUCTURES SHOWN ARE EXISTING

10005 GARDEN HIGHWAY, NEAR VERONA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7991.1
 LEWIS
 APN 35-351-007
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SUTTER 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 10/16/18