

**STAFF REPORT
C29**

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10/18/18
PRC 6352.1
G. Asimakopoulos

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

LESSEE:

Marc A. Brennen and Patricia L. Brennen

APPLICANT:

Carlos L. Ramirez and Lorraine A. Ramirez, Trustees of the Carlos L. Ramirez and Lorraine A. Ramirez Family Revocable Trust dated July 26, 2017

PROPOSED LEASE

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 2945 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered single-berth floating boat dock with boat lift, ramp, personal watercraft ramp, four pilings, two-pile dolphin, and bank protection.

LEASE TERM:

10 years, beginning January 9, 2018.

CONSIDERATION:

Uncovered Single-Berth Floating Boat Dock with Boat Lift, Ramp, Personal Watercraft Ramp, Four Pilings, and Two-Pile Dolphin: ~~\$472~~ \$435 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.

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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 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 18, 2015, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Marc A. Brennen and Patricia L. Brennen, for the continued use and maintenance of an existing uncovered single-berth U-shaped floating boat dock, ramp, four pilings, two-pile dolphin, and bank protection previously authorized by the Commission, and a boat lift and personal watercraft ramp not previously authorized by the Commission ([Item C33, December 18, 2015](#)). That lease will expire on August 7, 2025. On January 9, 2018, ownership of the upland parcel was transferred to the Applicant. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the continued use and maintenance of the existing uncovered single-berth floating boat dock with boat lift, ramp, personal watercraft ramp, four pilings, two-pile dolphin, and bank protection. The Lessee has executed a lease quitclaim deed releasing their interest in the lease to the State. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease to the Applicant, beginning January 9, 2018.

The subject 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 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.

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 do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease,

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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.

Climate Change:

Climate change impacts, including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The lease area is located along the Sacramento River within a tidally influenced region vulnerable to flooding at current sea levels. In the foreseeable future, this area will be at a higher risk of flood exposure given future projected scenarios of sea-level rise. The facilities associated with this lease area include an existing uncovered single-berth floating boat dock with boat lift, ramp, personal watercraft ramp, four pilings, a two-pile dolphin, and bank protection.

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). This effect could increase the Sacramento River's inundation levels within the lease area. In addition, as stated in the *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).

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 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.

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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 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 dock and ramps 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. These structures may require more frequent maintenance to ensure continued functionality, during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features, such as pilings and bank protection may need reinforcement to withstand higher levels of flood exposure.

Thick woody vegetation along the bank, in combination with the bank protection armoring, provides additional stability and can reduce the amount of erosion and scour pressure experienced during future events. Regular maintenance of the bank protection armoring, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement, and protect the underground root systems of the woody vegetation.

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 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.

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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. The Lessee executed a lease quitclaim deed releasing Lessee's interest in the Lease to the State. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.
3. Acceptance of the lease 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

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 the Public Trust

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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 from the Lessee, effective January 8, 2018, of Lease No. PRC 6352.1, a General Lease – Recreational and Protective Structure Use, issued to Marc A. Brennen and Patricia L. Brennen.

2. Authorize issuance of Lease No. PRC 6352.1, a General Lease – Recreational and Protective Structure Use to the Applicant, beginning January 9, 2018, for a term of 10 years, for the continued use and maintenance of an existing uncovered single-berth floating boat dock with boat lift, ramp, personal watercraft ramp, four pilings, two-pile dolphin, and bank protection, 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 uncovered single-berth floating boat dock with boat lift, ramp, personal watercraft ramp, four pilings, and two-pile dolphin: ~~\$472~~ \$435 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 6352.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 206 patented on August 2, 1869, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing single-berth u-shape floating boat dock, boat lift, jet-ski ramp, ramp, two-pile dolphin and four pilings lying adjacent to that parcel described in Grant Deed recorded January 9, 2018 in Document Number 201801091189 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 adjacent to said parcel.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 07/17/18 by the California State Lands Commission Boundary Unit





SACRAMENTO RIVER

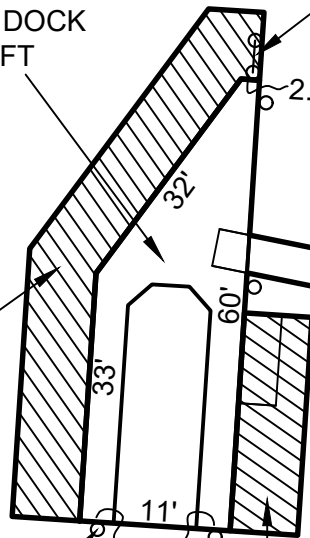
EXISTING SINGLE-BERTH U-SHAPE FLOATING BOAT DOCK WITH BOAT LIFT

EXISTING TWO-PILE DOLPHIN

9' IMPACT AREA

EXISTING RAMP 60'x5'

APN 225-0210-030



EXISTING PILINGS (4)

JET-SKI RAMP & 9' IMPACT AREA

EXISTING BANK PROTECTION

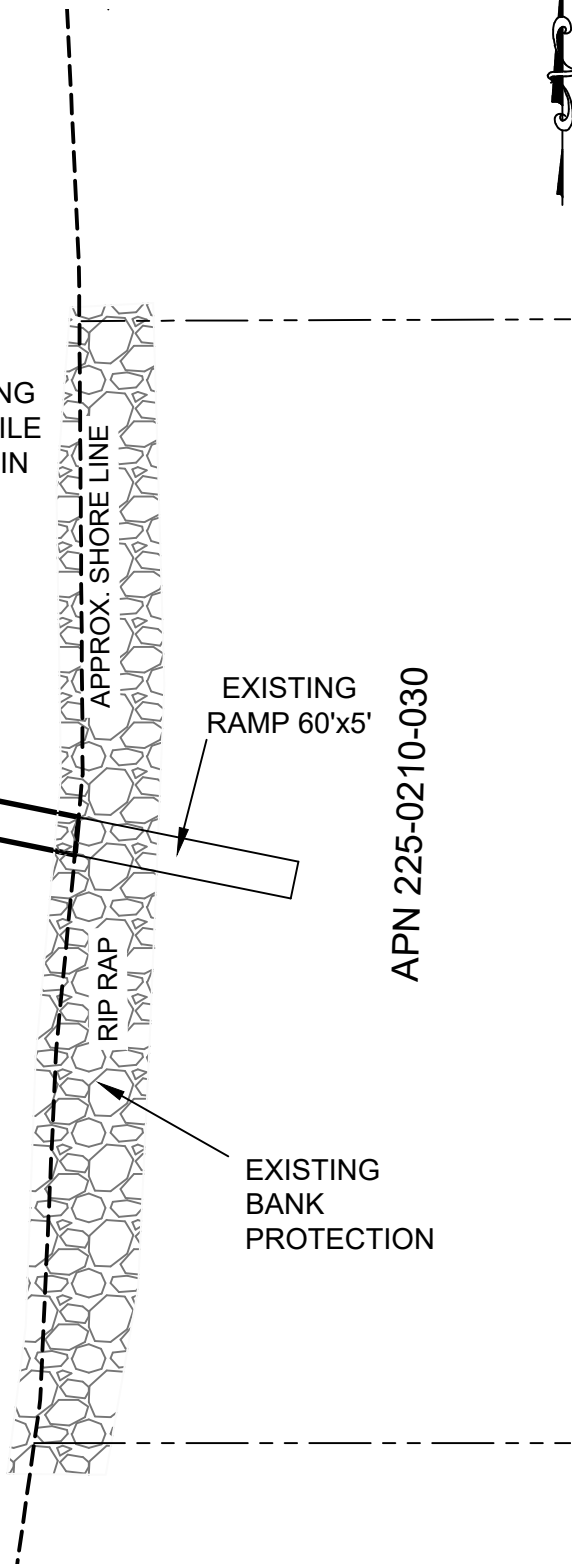


EXHIBIT A



NO SCALE

SITE

SACRAMENTO RIVER

EXISTING SINGLE-BERTH U-SHAPE FLOATING BOAT DOCK WITH BOAT LIFT

EXISTING TWO-PILE DOLPHIN

9' IMPACT AREA

EXISTING PILINGS (4)

JET-SKI RAMP & 9' IMPACT AREA

EXISTING RAMP 60'x5'

EXISTING BANK PROTECTION

APPROX. SHORE LINE

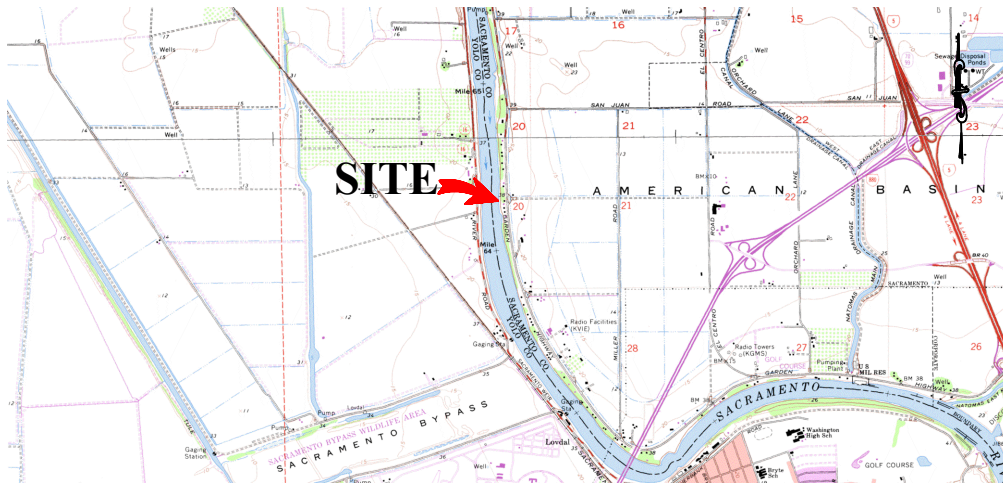
RIP RAP

2945 GARDEN HIGHWAY, SACRAMENTO

APN 225-0210-030

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6352.1
 RAMIREZ
 APN 225-0210-030
 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.